



REPUBLIC OF KENYA



**Obilo v Republic (Criminal Revision E091 of 2024)
[2024] KEHC 4339 (KLR) (19 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4339 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E091 OF 2024
RE ABURILI, J
APRIL 19, 2024**

BETWEEN

ALFRED KWAJE OBILO APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in the Senior Principal
Magistrate's Court Traffic Case No. E221 of 2024 at Nyando)*

RULING

1. The Convict Alfred Kwaje Obilo was convicted on his own plea of guilty entered on 2nd April 2024 vide Nyando SPM Traffic Case No. E221 of 2024 with four counts of :-
 - i. Failing to wear protective helmet contrary to Section 103 (B) (2) as read with Section 103 (B) (7) of the Traffic Act.
 - ii. Riding a motorcycle without a reflector jacket contrary to Section 103 (B) (1) as read with Section 103 (B) (7) of the Traffic Act.
 - iii. Riding uninsured motorcycle contrary to Section 103 (B) (3) and 103 (B) (7) of the Traffic Act.
 - iv. Riding a motorcycle on a public road without a driving licence contrary to Section 30 (1) as read with Section 30 (3) of the Traffic Act.
2. The offences took place on 2nd April 2024 at 0300 hours along Ahero – Awasi road in Nyando Sub-County within Kisumu County and the Convict was riding Motorcycle Registration No. KMEL 275D Make Boxer.
3. On each of the 4 counts, the Convict was fined Kshs.10,000 making a total of Kshs.40,000 and in default, to serve two (2) months imprisonment.



4. In mitigation, the Convict stated that he had nothing to say but that in any case, he was drunk. Sentences were to run consecutively.
5. He now applies for sentence Revision.
6. I have considered the application for sentence revision dated 5th April 2024. I have also considered the supporting affidavit and the annexed medical documents which show that the convict was on medication as a recovering alcohol and that he was in addition, being given psychiatric treatment. That in itself should have helped him in mitigation but he ignored and simply stated that he was drunk anyway.
7. He claims that the sentence imposed were harsh and excessive. I disagree. The sentence imposed was lawful and lenient considering the aggravating circumstances as the Convict endangered not only his life but the lives of innocent road users.
8. However, in the spirit of prison decongestion, as the convict has now been in prison for two weeks, I exercise discretion and revise the sentences impose on him which run consecutively and set the consecutive sentences aside and substitute with an order that the 4 prison sentences in default of the fines imposed shall run concurrently.
9. That leaves the Convict with two (2) months imprisonment as he has been unable to raise the fines imposed.
10. I further revise the two (2) months imprisonment concurrent sentence substituted above and substitute it with an order that the Convict Alfred Kwaje Obilo shall be conditionally discharged from prison and shall not commit any offence for the next six (6) months of his release.
11. He shall for the next six (6) months from the date of his release, report to Nyando Police Station every Friday.
12. Further, as the offences of riding a Motorcycle without a driving licence and riding an insured Motorcycle are very serious offences, I direct that the Convict, who is psychiatric case, shall not be given the Motorcycle Registration No. KMEL 275D Make, Boxer until he secures a valid Insurance cover for the same and he attends a driving school and obtains a valid driving licence within the next six months of today and in addition, unless and until he is cleared of being an alcoholic by a registered medical officer.
13. In default of the convict meeting the above conditions, the Motorcycle Registration No. KMEL 275D Make Boxer, shall be forfeited to the State and sold by the court through the Government Assets Disposal process.
14. Therefore, unless otherwise lawfully held, the Convict Alfred Kwaje Obilo is hereby released from prison conditionally.
15. Signal to issue.
16. This file is closed.
17. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF APRIL, 2024

R. E. ABURILI

JUDGE

