



**Wairimu v Republic (Criminal Revision 112 of 2023)
[2024] KEHC 6158 (KLR) (20 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6158 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 112 OF 2023**

DR KAVEDZA, J

MAY 20, 2024

BETWEEN

JOSEPH KAMAU WAIRIMU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and pleaded guilty for the offence of being in possession of narcotic drugs contrary to section 3(1) as read with section 3(2) of the [Psychotropic Substances Control Amendment Act, 2022](#). He was sentenced serve five (5) years imprisonment. He filed an application seeking sentence review.
2. The averments made in support of the application are that the he is a young man of 30 years. He was a first offender. He is remorseful for the offence committed. He urged the court to grant a non-custodial sentence.
3. This court called for the probation report which has been considered. I have perused the record of the trial court and nowhere did the learned magistrate give recognition of the fact that the applicant had pleaded guilty to the charge therefore saving court's time. The learned trial magistrate did not also recognize that the applicant was a first offender. The court gave more weight to the seriousness of the charge and the need to pass a deterrent sentence. In so doing I find that the learned trial magistrate overlooked material factors which dictated a less severe sentence than the one imposed.
4. In those circumstances I find that the sentence of 5 years imprisonment was excessive and manifestly harsh having considered the applicant pleaded guilty, was a first offender.
5. I allow the application for sentence review and set aside the sentence of five (5) years imprisonment and substitute it was a fine of Ksh. 100,000 in default to serve 12 months imprisonment.



Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 20TH DAY OF MAY 2024

D. KAVEDZA

JUDGE

