



REPUBLIC OF KENYA



**Rono v ODPP (Criminal Revision E084 of 2024)  
[2024] KEHC 8463 (KLR) (12 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8463 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL REVISION E084 OF 2024**

**JK SERGON, J**

**JULY 12, 2024**

**BETWEEN**

**PAUL KIPKOECH RONO ..... APPLICANT**

**AND**

**ODPP ..... STATE**

**RULING**

1. The Deputy Registrar of this court caused Kericho C.M.CR.C No.E819 of 2024 – Republic -vs- Paul Kipkoech Rono to be placed before this Court pursuant to the Provisions of Sections 362 and 364 of the *Criminal Procedure Code* for perusal and revision.
2. Pursuant to the aforesaid provisions, this Court perused the proceedings relating to the aforesaid case.
3. The record shows that one Paul Kipkoech Rono, hereinafter referred to as the applicant pleaded guilty to a charge of being in possession of alcoholic drinks for sale without a licence Contrary to Section 7 (1) (b) as read with Section 62 of the *Alcoholic Drinks Control Act* No.4 of 2010. The applicant was thereafter sentenced to serve (6) six months imprisonment.
4. In exercising its power of revision under Section 362 of the *Criminal Procedure Code*, this Court is required to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed.
5. Under Section 62 of the *Alcoholic Drinks Control Act*, the offence the Applicant was convicted for attracts a maximum sentence of a fine of Kshs.500,000/= or a term of imprisonment of three (3) years or both. The record shows that the applicant was not given an option of a fine but was instead sentenced to serve a prison term. The trial court did not specify the reasons(s) why it opted to impose a custodial sentence instead of imposing a fine.



6. The trial court erred when it failed to first give the Applicant an option of a fine. The Applicant has so far served three (3) months and 25 days. It would appear from the record that the Applicant was a first offender a fact the trial court did not take into account before meting out the sentence of six (6) months.
7. I find the sentence of six month to be excessive for a first offender and for one who pleaded guilty. The appropriate sentence in the circumstances of this case should have been three months. For the above reasons, the sentence imposed has to be revised downwards.
8. In the end, the sentence imposed of six months is set aside and is substituted with a sentence of (3) three months to run from the date of sentence i.e. from 21<sup>st</sup> March, 2024. It is obvious that the applicant has served in full the sentence.
9. Consequently, the Applicant namely: Paul Kipkoech Rono is hereby ordered set free forthwith unless lawfully held.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 12<sup>TH</sup> DAY OF JULY, 2024.**

.....

**J.K. SERGON**

**JUDGE**

