



REPUBLIC OF KENYA



KENYA LAW
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**Busdo v Republic (Criminal Petition E236 of 2023)
[2023] KEHC 17723 (KLR) (17 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17723 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL PETITION E236 OF 2023
SC CHIRCHIR, J
MAY 17, 2023**

BETWEEN

DOUGLAS BUSDO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. On May 16, 2023 this file was placed before me, under certificate of urgency, seeking for directions or orders pursuant to a letter dated May 15, 2023 seeking for a revision of the sentence passed by the trial court in Kakamega Criminal Case No E008 of 2022.
2. On the grounds for revision, the applicant has submitted that the issue that took him to court is a family issue; that he risks losing his job if the incarceration continues; that he is sickly and consequently prays that the custodial sentence be substituted with a fine.
3. I have considered the letter. The applicant's application is in respect to count II of the charge. The charge was "creating disturbance in a manner likely to cause a breach of peace contrary to section 95(1) (b) of the *Penal Code*." After a full triable he was convicted, and sentenced to serve one month in prison without the option of a fine. He was acquitted on count I and given a fine on count II.
4. Section 362 of the *Criminal Procedure Code* provides as follows "The High Court may call and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself, as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings if any such subordinate court"
5. The offence in respect of which the applicant was charged with attract a sentence of a maximum of 6 months. He was sentenced to one month. There is nothing incorrect, illegal or improper about the said sentence to warrant a revision. This court will only exercise supervisory powers only on instances set out under section 362.



6. If the applicant is dissatisfied with the sentence then he should appeal against the sentence, but not seek for a review. The prayer for revision is hereby dismissed

DATED AT KAKAMEGA THIS 17TH DAY OF MAY, 2023

S CHIRCHIR

JUDGE

