



REPUBLIC OF KENYA



**KENYA LAW**  
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**MMM v Republic (Criminal Revision E065 of 2023)  
[2023] KEHC 4158 (KLR) (10 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 4158 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CRIMINAL REVISION E065 OF 2023**

**GL NZIOKA, J**

**MAY 10, 2023**

**BETWEEN**

**MMM ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This matter has been brought to the attention of the court vide a letter dated April 19, 2023, from the office of the Director of Public Prosecution seeking for revision of the sentence meted out by the Hon. J. Ndengeri (SRM) (as she then was), now (PM) vide Chief Magistrate Criminal case No. E076/2023.
2. It is the prosecution argument that, the sentence meted out that, the subject do serve one year sentence at Kamiti Youth Correctional and Training Centre is incorrect and improper. The prosecution rely on the provisions of section 67(1) of the *Prisons Act*, (Cap 90) Laws of Kenya. The subject letter sets out the grounds for revision and prayers sought.
3. I have called for and perused the trial court's proceedings and note that, the subject was indeed sentenced to serve one year sentence at Kamiti Youth Corrective and Training Centre. He was then taken back to the trial court where the prosecutor informed the court that he could not be accepted at the Institute due to his age. The court indicated that it was *functus officio*, advising that, the matter be referred to the High Court for revision.
4. I find that, as per the birth certificate of the subject indicating that, he was born on September 24, 2006 and the fact that, the offence was committed on January 11, 2023, he had not attained the age of 17 years. As such he could not have been sentenced to serve the sentence in a corrective training centre.
5. In that regard, and pursuant to the provisions of section 362 of *Criminal Procedure Code*, I set aside the sentence of herein and order that, the matter reverts back to the trial court for sentencing in accordance with the law.



6. It is so ordered.

**DATED, DELIVERED AND SIGNED THIS 10<sup>TH</sup> DAY OF MAY 2023.**

**GRACE L. NZIOKA**

**JUDGE**

