



REPUBLIC OF KENYA



KENYA LAW
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**Wachira v Republic (Criminal Revision E042 of 2023)
[2024] KEHC 12408 (KLR) (11 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12408 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL REVISION E042 OF 2023**

MA ODERO, J

OCTOBER 11, 2024

**FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL
CASE NO. 161 OF 2023 OF THE CMS COURT AT NYERI**

BETWEEN

BENSON MWANGI WACHIRA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein Benson Mwangi Wachira filed the Notice of Motion dated October 12, 2023 seeking review of his sentence.
2. The office of the DPP opposed the Application.
3. The Applicant was charged with the offence of Trafficking Narcotic Drugs contrary to Section 4 as read with Section 4(a) of the *Narcotic Drugs and Psychotropic Substances Control Act* 2022.
4. The Applicant pleaded 'Guilty' to the charge and was sentenced to serve ten (10) years imprisonment without option to fine. The Applicant now prays that his sentence be reviewed.
5. As stated earlier the ODPP opposed the application for review of sentence submitting that the Applicant was not a first offender. That the offence was serious and thus a deterrent sentence was called for.
6. The power of the High Court to review is set out in Section 362 of the *Penal Code* Cap 60 Laws of Kenya as follows:-

“The High Court may call for 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 of any such subordinate court.”

7. The duty of the court therefore is to examine the correctness, legality and/or propriety of any finding sentence or order.
8. I have perused the record in the matter and I am satisfied that the trial of the Applicant was properly conducted. There was no impropriety in the manner in which the plea was taken.
9. The Applicant pleaded guilty to the charge. He maintained the plea of ‘guilty’ even after the facts were read out.
10. The sentence imposed upon the Applicant was a legal sentence. As stated by the Learned State Counsel, the Applicant was a repeat offender. The Applicant conceded that he had previously been sentenced to serve six (6) months community service for a similar offence.
11. In the circumstances I am not inclined to review the sentence as imposed upon the Applicant. Accordingly this application is dismissed in its entirety with no orders on costs.

DATED IN NYERI THIS 11TH DAY OF OCTOBER, 2024

MAUREEN A. ODERO

JUDGE

