



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL REVISION CASE 200 OF 2019
JACOB KINYUA.....APPLICANT
VERSUS
REPUBLIC.....RESPONDENT
RULING

The applicant **JACOB KINYUA**, filed this present application on 12.11.2020. The application has the main prayer at prayer 3 of the same, that;

“That may the court be pleased to review the decision by the trial court to suspend my driving licence for 3 years.”

The application is supported by the affidavit of the applicant in which he depones that he had been tried, convicted and sentenced on the Offence of causing death by dangerous driving. That the trial court had ordered that his driving licence be suspended for 3 years from the date of completion of his sentence. That in Misc. Criminal revision No. 200/2019, the High Court ordered his sentences to run concurrently (Count 1 & II) and that he had now completed his sentence. He pleaded that being a driver, the cancellation of his sentence has deprived him of his sole means of livelihood.

The state opposed this application on grounds that in revising the sentence, the Hon. Justice Kimaru did not interfere with the orders regarding the licence.

I have considered the submissions of both sides. This is an application for revision. Section 262 of the Criminal Procedure Code dictates:-

“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.”

It is therefore a legal duty of the applicant to show this court the error, or illegality or impropriety in the orders of the lower court as to justify a revision of the same by this court.

The applicant was charged under section 46 of the Traffic Act, Cap 403 Laws of Kenya. The sentence therein reads:

“..... Liable to imprisonment for a term not exceeding 10 years and the court shall exercise the power conferred by part VIII of cancelling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified for holding or obtaining a driving licence for a period of 3 years from the date of conviction or the end of any prison sentence imposed under this section, whichever is the latter.”

The law therefore provides for cancellation of the licence for a period of upto 3 years from the time of completion of the prison term. By this admission, the applicant completed his term in June 2021. He has not shown to this court error, illegality or impropriety in the orders of the trial court, which orders are clearly legal or proper.

The application of the applicant, lacking in any merit is accordingly dismissed wholly. Orders accordingly.

D. O. OGEMBO

JUDGE

16.11.2021.

Court:

Ruling read out in presence of Ms. Joy for the State. The applicant is absent.

D. O. OGEMBO

JUDGE

16.11.2021.