

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

HIGH COURT CRIMINAL REVISION NO. 3 OF 2020

ONESMUS INGOS ISINDU.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being a Revision arising from the original conviction and

sentence in Cr. Case No. 1789 of 2016 in the CMC's Court

at Kibera, Hon. B. Ojoo – SPM; and Judgment delivered on 9th December, 2019.)

RULING

Upon hearing the submissions by the Applicant and the Respondent, it is clear that the Applicant had been in custody before conviction for a period of almost four years which the trial court ought to have taken into account under the provisions of Section 333(2) of the Criminal Procedure Code.

I have noted that though he was given a lesser sentence the judgment is silent on whether the years served in remand were taken into account.

I have therefore reversed the sentence meted out to the accused person to two years from the date 18/4/2016.

Since the applicant has already served the said period while in remand the same to be released forthwith from prison on conditions that should he commit a similar offence then he shall serve the said two years first in addition to any sentence meted to him by any other court in the Republic of Kenya and it is ordered.

Dated, Signed and Delivered at Nairobi This 7th Day of October, 2020 Through Microsoft Teams.

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J. WAKIAGA

JUDGE