



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**

**CRIMINAL MISC. APPLICATION CASE NO. 30 OF 2014**

**SAMUEL TAGASAR.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. In this Miscellaneous Application for leave to appeal for review of court sentence filed in the year 2014, every effort has been made to get the original Wajir Magistrate's trial court file for Wajir Criminal Case No. 202 of 2014, in which several people were charged and convicted of being unlawfully present in Kenya.
2. The latest information from the Senior Clerk Garissa High Court Criminal Registry S. K. Theri is that he received an e-mail from Halima Ahmed – Ag. Executive Assistant Wajir Court that the trial court file had been sent to Garissa by registered post No. 806 of 2015. Mr. Theri however stated that when he went to the Garissa Post Office, he was informed that such records must have been destroyed after two years that is in 2017.
3. As such, the trial court file has not been received by this court nor its whereabouts known.
4. The applicant and 28 others were charged in the same case under same file for unlawful presence in Kenya and were sentenced on 9<sup>th</sup> June, 2014 to pay a fine of Kshs.200,000/= each or to serve two (2) years imprisonment and be repatriated. They must have served sentence by now and repatriated to their home counties.
5. As the trial court file has not been traced. In my view, there is no point in keeping the application alive, as the applicant has not pursued the same.
6. As such, I mark the application and all similar applications arising from Wajir Magistrate's Criminal Case No. 202 of 2014 as abandoned.

**Dated, Signed and Delivered at Garissa this 4<sup>th</sup> May, 2018.**

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**GEORGE DULU**

**JUDGE**