

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL REVISION NO. 160 OF 2016

JACKLINE WANJA..... APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

18/01/2017

Before: Muchemi, J.

R U L I N G

1. I have perused this file brought to me for revision under Section 362 of the Criminal Procedure Code. The applicant was convicted of the offence of alcoholic drinks contrary to Section 27(1) (b) as read with Section 27(4) of the Alcoholic Drinks Act. She had 15 litres of traditional liquor otherwise known as “machore”. She was sentenced to serve three years imprisonment.

2. In her application she outlines her grounds for review of sentence stating that she has served four (4) months imprisonment and that she has undergone counselling and reformed. Further that she is a single mother of five children. She pleads for a suspended sentence for the remaining period.

3. Section 362 of the CPC addresses issues of illegality, irregularity or mistake by the trial court and empowers this court to correct them in way of revision.

4. The applicant pleaded not guilty, evidence was taken, defence heard and she was convicted after full hearing. Section 27 provides for a fine not exceeding Shs. 2 million or to imprisonment for a term not exceeding five (5) years.

5. The applicant was not a first offender. She had three previous convictions within a period of 12 months. This puts her in the category of habitual offenders which the court has a duty to discourage by meting out deterrent sentences. The sentence of three years imposed was within the law.

6. The magistrate did not make any mistake or commit any illegality under Section 362 of the CPC for this court to review.

7. The application is accordingly dismissed.

8. The ruling to be served on the applicant.

F. MUCHEMI

JUDGE

18/01/2017