

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION 19 OF 2017

ZABLON KANYI MAINA.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

RULING

The lower court file in Tr. Case No. 1221 of 2017 was forwarded to this court pursuant to Section 364 of the Criminal Procedure Code so that the court can satisfy itself as to the correctness, legality or propriety of the sentence passed. In his application by Notice of Motion dated 9th February, 2017, the Applicant prays that the sentence passed in the Traffic case be revised. He pleads that the total fine of Kshs. 120,000/= was excessive given that the offences committed were minor. He was charged with ten counts under the Traffic Act, Cap 403 Laws of Kenya namely; driving a motor vehicle on a public road without some parts or equipment maintained in safe condition, operating a public service vehicle with a road service license, failing to carry a driving licence, failing to renew a driving licence, driving a motor vehicle without an inspection sticker, operating a motor vehicle on a road without a prescribed badge, failing to exhibit a recent photograph of the driver, acting as a driver in a public service vehicle without a PSV license, failing to wear a public service vehicle uniform and failing to boldly display at the front rear and sides the name of the Sacco or company under which the vehicle operates. He was convicted on his own plea of guilty on 30th January, 2017.

He has pleaded with the court to revise the sentence to a non-custodial one or all together set him free. I have accordingly considered the application. I note that the Applicant was generally charged with minor traffic offences and since his conviction, has served one and a half months in jail. In my view, he has learnt his lesson and in addition was remorseful. It is then only fair that the court revises the sentence in his favour. I set aside the fines imposed and substitute them with an order that the Applicant has served sufficient sentence. I order that he be and is hereby forthwith set free.

DATED AND DELIVERED THIS 15TH DAY OF MARCH, 2017

G.W.NGENYE-MACHARIA

JUDGE

In the presence of;

- 1. Applicant in person*
- 2. Miss Nyauncho for the Respondent.*