



REPUBLIC OF KENYA

IN THE HIGH COURT AT KERICHO

HCCRA NO.2 OF 2015

(Appeal originating from the Ruling of Hon. B. Limo in Kericho Traffic Case No.586 of 2014)

CHARLES KORIRAPPELLANT

VRS

REPUBLIC..... RESPONDENT

JUDGMENT

1. **CHARLES KORIR** the Appellant herein was charged and convicted of the offence of causing death by dangerous driving contrary to **section 46** of the **Traffic Act** (Cap 403 of the Laws of Kenya).
 2. Initially the Appellant had denied the charge and the matter proceeded to hearing and he was placed on his defence.
 3. It is at that point that he changed plea. The facts were presented to him afresh and he admitted them and was convicted. Upto that point, I find nothing to make this court interfere with the conviction.
 4. From the record, it is clear that the Appellant was given an opportunity to mitigate. He asked the court for leniency. The prosecution also indicated that the appellant was a first offender. He was sentenced to seven (7) years imprisonment.
 5. In his submissions, the appellant asked the court to reduce the sentence for him.
 6. The State through M/s Keli submitted that the maximum sentence for this offence was ten (10) years hence the sentence of seven (7) years was lawful.
- She however, added that this court in its discretion could reduce the sentence.
7. The law under section 46 of the Traffic Act Cap 403 Laws of Kenya provides for a maximum sentence of ten (10) years as submitted by the State.
 8. While sentencing in such a case among the things to be considered are:

i. The impact of the sentence.

The deceased's estate will still seek compensation from the accused person. Even if it is the insurance to pay, the accused would have to be upto date with his premium payments or he

pays himself.

ii. Whether the accused is a 1st offender.

9. After due consideration of the above, I find that the sentence of seven (7) years imprisonment was harsh and excessive.

He was convicted on 13th January 2015 having been arraigned in court on 18th September 2014.

He has served over one year in prison.

10. I therefore set aside the sentence of seven (7) years imprisonment and substitute it with a sentence of the period already served.

The Appellant shall be released forthwith.

Signed, dated and delivered this 2nd day of March, 2016.

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H. I. ONG'UDI

JUDGE