

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

REVISION NO. 38 OF 2016

D N APPLICANT

VERSUS

REPUBLIC RESPONDENT

(Revision from the Sentence of the Chief Magistrate's Court at Nakuru Hon. J. Nthuku- Senior Resident Magistrate delivered on the 20th July 2016 in TR Case No. 1298 of 2016)

RULING

I have considered the application for review in this file **TR 1298/2016 Republic Vs D N W**. The accused was sentenced to a total fine of Ksh 75,000/= in default to serve 11 months imprisonment. After the conviction it came to light that the accused was in fact a minor. His birth certificate S/No. [particulars withheld] shows him to have been born on 16th August, 1999 therefore he is now 17 years old. As such the sentence imposed was illegal.

For this reason I am inclined to review the sentence of the lower court. I note that the accused was convicted and sentenced on 20/7/2016 thus he has spent roughly one month behind bars. I set aside the sentence imposed by the trial court and reduce it to time already served.

The accused is to set at liberty unless otherwise lawfully held. He is warned to steer clear of any further breaches of the law.

Dated in Nakuru this 2nd day of September, 2016.

Maureen Odera

Judge