



**Kipchirchir v Republic (Criminal Revision E081 of 2025)
[2025] KEHC 13857 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13857 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E081 OF 2025**

JM OMIDO, J

OCTOBER 2, 2025

BETWEEN

ERICK KIPCHIRCHIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. A brief background of the matter before me is that Erick Kipchirchir (hereinafter “the Applicant”) was on 10th September, 2025 charged with the traffic offence of touting contrary to Section 103(1) as read with 103(2) of the *Traffic Act*, Cap 403 Laws of Kenya in Kisumu Chief Magistrate’s Court Traffic Case No. E241 of 2025
2. The Applicant took plea on the same day and denied the charge and was granted cash bail of Ksh.3,000/-, which he failed deposit, as a result of which he was remanded in custody.
3. It would appear from the record of the trial court that a warrant of commitment where a fine is imposed was erroneously issued, instead of a warrant of commitment to remand.
4. This matter has now been placed before me for purposes of considering the exercise of this court’s revisionary powers under Section 362 of the *Criminal Procedure Code* Cap 75 Laws of Kenya.
5. The power of revision allows this court to call for and examine the record of any criminal proceedings from a subordinate court to ensure the correctness, legality, or propriety of any finding, sentence or order and to ensure the regularity of proceedings.
6. Under Section 364 of the *Criminal Procedure Code*, upon revision (under Section 362), this court has powers to reverse or alter the Magistrate’s court’s decision and to make any order that the court would have made if it were hearing the matter as an appeal, but cannot convert an acquittal into a conviction (which can only be done upon appeal).



7. Noting that the warrant of commitment where a fine is imposed has the effect of the Applicant being treated as a convicted person (notwithstanding that he denied the charge), its wrongful erroneous issuance amounts to an order or action that should be revised under Section 362 and 364 of the *Criminal Procedure Code*.
8. That being the case, I proceed to revise the said issuance of the warrant of commitment where a fine is imposed issued on 10th September, 2025 and hereby set it aside.
9. Noting that further proceedings were conducted before the trial court on 1st October, 2025 whereby the Applicant pleaded guilty to the charge, was convicted and discharged absolutely under Section 35(1) of the *Penal Code*, Cap 63 Laws of Kenya, I hereby order that he be forthwith set at liberty unless is otherwise lawfully detained.
10. This file is hereby closed.
11. This ruling and/or the order emanating therefrom to be served upon the Officer in Charge Kisumu Medium Prison for immediate action and/or compliance.
12. Orders accordingly.

DELIVERED, DATED AND SIGNED THIS 2ND DAY OF OCTOBER, 2025.

JOE M. OMIDO

JUDGE

For The Applicant: No Appearance.

For The Respondent: Ms. Onyango.

Court Assistants: Mr. Ngoge & Mr. Juma.

