

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ISIOLO
CRIMINAL REVISION NO. E022 OF 2025

BRIAN

KOOME

.APPLICANT

VERSUS

REPUBLIC

.....RESPONDENT

RULING

1. The Applicant was charged with the offence of being in Possession of Narcotic Drugs Contrary to Section 3(1) as Read with Section 3(2) of the Narcotic Drugs and Psychotropic Substance Control Act No. 4 of 2022. He was convicted on his own guilty plea and fined Kshs. 100,000/= or 3 years imprisonment in default of the fine.
2. He has brought the present application seeking for a downward review of the sentence. The grounds for review are that he has three children who depends solely on his financial support and that he suffers from tuberculosis.
3. In response, the Respondent opposed the application. The Respondent states that the sentence meted was too lenient; that pursuant to under Section 3(2) of the Act, that the offence attracts a penalty of 5 years imprisonment and a fine of not **more than 5 years**. It is finally stated finally that there are no valid reasons for review.

Determination

4. I have considered the application and the rival submissions of the parties. The High Court's jurisdiction on Revision of the Subordinate's Court judgements, orders or proceedings is founded on Section 362 to 367 of the Criminal Procedure Code. The duty of the High Court when exercising the said jurisdiction is to check if there is any *illegality, incorrectness or impropriety* in the Subordinate Court's orders, judgement or sentence or irregularity in proceedings. (**section 362 of the Criminal Procedure Code**).
5. The Applicant's plea is that he suffers from ill-health and the welfare of his children has been compromised. It has nothing to do with the question of incorrectness, illegality or impropriety of the lower court's proceedings or sentence meted out on him. Therefore, none of the grounds contemplated by section 362 of the criminal procedure code is present.
6. Further, a sentence of 3 years in default of a fine was quite lenient when considered against the 5 years prescribed under Section 3(2) of the Narcotic Drugs and Psychotropic Substances Control Act.
7. Nevertheless, I have not found any illegality, incorrectness or impropriety in the sentence passed by the trial court.
8. The application therefore lacks merit. It is hereby dismissed.

Dated, signed and delivered virtually at Nairobi this 3rd of December 2025.

S. Chirchir

Judge.

In the presence of :

Roba Katelo- court Assistant

The Applicant

Mr. Ngetich for the Respondent.

ORIGINAL