



**Motari v Director of Public Prosecutions (Criminal Revision
E057 of 2025) [2026] KEHC 2842 (KLR) (3 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2842 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E057 OF 2025
TW CHERERE, J
FEBRUARY 3, 2026**

BETWEEN

GEOFFREY OSINDE MOTARI APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

1. The Applicant was charged in Keroka Criminal Case No. E343 of 2024 with the offence of possession of alcoholic drinks that do not conform to the requirements of the *Alcoholic Drinks Control Act*, contrary to section 27(1)(b) as read with section 27(4) of the Act, as reflected in the charge sheet.
2. The lower court record shows that the charge was read to the Applicant in a language he understood, and he unequivocally pleaded guilty. The prosecution outlined the facts, including recovery of 69 litres of chang'aa packed in three 20-litre jerricans and three 3-litre jerricans, which the Applicant admitted as correct. The court accordingly entered a conviction.
3. After considering the mitigation, the trial court sentenced the Applicant to a fine of KES. 207,000, and in default twelve (12) months' imprisonment.

The Application

4. The Applicant seeks revision of both the conviction and the sentence under Articles 50 and 165(6) & (7) of *the Constitution* and sections 362 to 364 of the Criminal Procedure Code, alleging misunderstanding of the plea, language challenges, and hardship.

Respondent's Position

5. The Respondent opposed the application to the extent that the conviction was proper and supported by a lawful plea. The Respondent, however, submitted that the sentence appeared severe.



Issues

6. From the foregoing, the issues arising for determination are:
 1. Whether the conviction should be interfered with
 2. Whether the sentence warrants revision.

Analysis and Determination

1. Conviction

7. The record demonstrates that the plea was taken in accordance with the guidelines in *Adan v Republic* (1973) EA 445. The Applicant admitted both the charge and the facts voluntarily, and the trial court was entitled to convict on that basis. There is therefore no impropriety, incorrectness or irregularity in the conviction to justify intervention under section 362 CPC.

2. Sentence

8. Section 27(4) of the *Alcoholic Drinks Control Act* provides:

“A person who contravenes this section commits an offence and shall be liable to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding five years, or to both.”
9. The sentence imposed by the trial court was therefore lawful and within the statutory limits.
10. However, legality alone is not the sole consideration. Sentencing must also comply with constitutional principles, particularly Article 28 (human dignity), Article 50(2)(p), and the principle of proportionality, which requires that punishment be commensurate with both the offence and the offender.
11. The Applicant is a first offender. The offence, though serious, did not involve aggravating features beyond possession. The fine imposed is manifestly high when measured against the quantity involved and the Applicant’s mitigation, and carries a punitive default custodial term.
12. The revisionary jurisdiction under section 364 of the Criminal Procedure Code empowers this Court to interfere where, though lawful, a sentence results in an unjust or disproportionate outcome.
13. In the circumstances of this case, the objectives of sentencing which are deterrence, accountability, and rehabilitation can adequately be met through a moderate pecuniary penalty, without exposing the Applicant to the risk of incarceration for inability to pay an excessive fine.
14. The Court is therefore satisfied that the sentence warrants downward revision.

Disposition

15. For the foregoing reasons:
 1. The conviction entered in Keroka MCCR. E343 of 2024 is affirmed.
 2. The sentence of a fine of KES 207,000 in default twelve (12) months’ imprisonment is hereby set aside and is substituted with a sentence of a fine of KES 50,000, and in default three (3) months’ imprisonment.



DELIVERED AT NYAMIRA THIS 03RD DAY OF FEBRUARY 2026.

WAMAE. T. W. CHERERE.

JUDGE

Appearances

Court Assistant - Hilda

Applicant - Present

For Applicant - Mr. Omangi

For the DPP - Mr. Mwangi

