



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKUR
CRIMINAL REVISION NO. E004 OF 2026

EUNICE **NJERI**
NJARIANI.....APPLICANT
VERSUS
REPUBLIC.....RESPONDENT

RULING

1. The Applicant was charged in **Nakuru MCTR No. E2649 of 2025** with two counts.
Count I: Failing to Obey Directions Given by a Police Officer in Uniform contrary to **Section 52(1)(a)(2)** of the **Traffic Act**.
Count II: Driving a Commercial Motor Vehicle without a first aid kit and fire extinguisher contrary to **Rule 56** as read with **Rule 69** of the **Traffic Rules**.
2. The Applicant pleaded guilty to both counts. On **Count I**, she was fined Kshs. 50,000 in default six (6) months imprisonment. On **Count II**, she was fined Kshs. 2,000 in default one (1) month imprisonment.
3. The matter has now been placed before this Court for revision under **Sections 362** and **364** of the **Criminal Procedure Code** on the

grounds that the sentence imposed was manifestly excessive, harsh and disproportionate and as against new regulations of the Traffic Act.

4. The Applicant further urges this Court to revise the sentence on the basis that the offence arose from unclear police instructions and caused no harm or congestion, that she is a first offender with significant mitigating circumstances including advanced age, poor health, unemployment and being the sole breadwinner for her children. That the trial Court failed to consider proportionality, fairness, and rehabilitation in sentencing
5. Under its revisional powers, this Court is therefore called upon to examine the correctness, legality and propriety of the sentence imposed.
6. Pertaining to Count I, **Section 52(1)(a)(2)** of the **Traffic Act** provides that for a first conviction, the penalty not exceeding Kshs. 50,000 or imprisonment for a term not exceeding six months.
7. On the other hand, the **First Schedule of The Traffic (Minor Offences) Rules** under **Legal Notice 161 of 2016** categorizes the offence under **Section 52(1)(a)(2)** as minor and which is punishable by a fine not exceeding Kshs. 3,000.
8. There were express provisions of the Traffic Act pertaining to the offence and the penalty. Nonetheless, the schedule in the subsidiary

legislation demonstrates that the drafter of the Rules understood the offence to be minor in nature.

9. The Trial Court was entitled to impose a lawful sentence within the statutory maximum, but by selecting the maximum penalty it failed to reflect the minor nature of the offence and the principles of fairness and proportionality. Sentencing is not merely about legality but also proportionality.
10. In the circumstances, while the sentence was lawful, this Court finds that the imposition of the maximum penalty was excessive given the nature of the offence. A fine of Kshs. 3,000 in default two months imprisonment would meet the ends of justice and in conformity with **The Traffic (Minor Offences) Rules**.
11. As regards Count II, **Rule 69** of the **Traffic Rules** operates as a general penalty clause for contraventions under **Part VI** and which regulates the conduct of drivers, conductors, and passengers of motor omnibuses and matatus. The offence with which the Applicant was charged falls under **Part V** of the Rules which provides for Special Provisions Relating to Omnibuses and Matatus.
12. Part V and Part VI are distinct in both subject matter and legislative intent. Accordingly, Rule 69 cannot be read as applying to offences under Part V, since its general penalty clause was designed to address breaches of Part VI only.
13. Be that as it may, **The Traffic (Minor Offences) Rules** prescribes a fine not exceeding Kshs. 2,000 or imprisonment for a term not

exceeding three months for Count II. The sentence imposed by the trial Court was therefore within the prescribed limits and requires no interference.

14. Accordingly, the Court makes the following orders: -
- a) **The Sentence in Count I of Kshs. 50,000 in default six months imprisonment is hereby set aside and substituted with a fine of Kshs. 3,000**
 - b) **The sentence on Count II is upheld.**
 - c) **Having duly paid the fine, the Applicant shall be refunded forthwith the excess sum of Kshs. 47,000 being the amount paid over and above the penalty imposed herein.**

It so ordered.

Signed, Dated and Delivered at Nakuru

On this 7th day of April 2026

Mohochi S.M

JUDGE