



**Langat v Republic (Revision Case E077 of 2023)  
[2023] KEHC 22130 (KLR) (22 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 22130 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
REVISION CASE E077 OF 2023  
HM NYAGA, J  
AUGUST 22, 2023**

**BETWEEN**

**PATRICK CHERUIYOT LANGAT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This matter has been brought to me under the Prison Decongestion Exercise been undertaken by this court.
2. The Applicant, Patrick Cheruiyot was charged and convicted on five counts of burglary contrary to section 304 (2) and stealing contrary to section 279 (b) of the *Penal Code*. On April 18, 2023 he was sentenced to pay a fine of Ksh 40,000/= and in default to serve 6 months' imprisonment on each count. The sentences were to run concurrently. In law a custodial sentence served in default of a fine ought to run consecutively, not concurrently. Therefore the trial court erred in ordering that the sentences run concurrently. The cumulative sentences add up to 30 months. However this does not bar this court from exercising its powers of revision.
3. The convict has so far served about 5 months in prison.
4. According to the Sentence Review Report filed on August 2, 2023, the Community Service Officer, Kevin Kariuki recommends Community Service at Siwot Chief's Camp for the remainder of his sentence.
5. The report further states that inmate is a class 4 drop out and has won the Ndalat Cross Country in 2019, he also works at a hotel where he makes chapatis and mandazis in Keringet. He hopes to go back to his trade once released.



6. The prison officers stated that he has been conducting himself well and has been deployed to the kitchen where he has learnt cooking skills while in prison, in addition to receiving guidance and counselling.
7. The Applicant is ready for a non-custodial sentence if considered and has shown remorse and very apologetic about his actions.
8. In light of the above and with the view to decongest the prison, I hereby exercise judicial discretion and order the Convict/Applicant be released from prison forthwith and be placed on Community Service at Siwot Chief's Camp 15 months. He shall be closely supervised by the Chief, Mautor Location who shall ensure the convict religiously performs any assigned community service to his satisfaction and weekly reports made to the Probation Officer, Molo who shall monitor the behaviour of the convict for the remainder of the sentence.
9. The applicant is, as required, made aware that in the event of a breach, the CSO order shall be revoked and he shall be returned to prison to serve the entire prison term imposed and not served.
10. File closed.

**DATED, SIGNED & DELIVERED AT NAKURU THIS 22<sup>ND</sup> AUGUST, 2023.**

**H.M. NYAGA**

**JUDGE**

