



REPUBLIC OF KENYA



**Waweru v Republic (Revision Case E047 of 2023)
[2023] KEHC 22082 (KLR) (22 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 22082 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E047 OF 2023
HM NYAGA, J
AUGUST 22, 2023**

BETWEEN

BENSON WAWERU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This matter has been brought to me under the Prisons Decongestion Exercise being undertaken by this court.
2. The Applicant Benson Waweru was convicted for the offence of Robbery with Violence contrary to section 296 (2) of the *Penal Code*. The trial court found that the ingredients of that offence were not established and he was convicted on the offence of stealing. He was sentenced to serve 1 year imprisonment on May 10, 2023.
3. He has so far served about 3 months in prison.
4. In the Sentence Review Report filed on August 2, 2023 the Community Service Officer, Douglas Mwiraria recommends community service.
5. According to the said Report the convict is a casual labourer. He intends to go back to his mother's house and will resume his casual labour as well as take part in farming activities upon his release. He enjoyed a cordial relationship with his family prior to his arrest and they all believe he has learnt his lesson and is suitable for release. The prison officers vouched for his release stating that he has demonstrated a positive change after undergoing counselling geared towards behavioural change. The area chief also vouches for him and believes he is deserving of a non-custodial sentence. Due to the missing police file, efforts to contact the complainant for an interview have been futile. The Applicant is remorseful and is willing to serve a non- custodial sentence.



6. In light of the above and with the view to decongest the prison I hereby exercise judicial discretion and suspend the remainder of the prison sentence and order for the release of the convict Benson Waweru from prison to perform community service at Mukinyai Primary School under the supervision of the school's duty officer. He is to be released from prison forthwith unless otherwise lawfully held.

7. File closed.

DATED, SIGNED & DELIVERED AT NAKURU THIS 22ND AUGUST, 2023.

H.M. NYAGA

JUDGE

In the presence of:

C/A Jeniffer

Ms Murunga for state

Applicant

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