



REPUBLIC OF KENYA



**Henry v Republic (Criminal Revision E028 of 2022)  
[2022] KEHC 12824 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12824 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E028 OF 2022  
RE ABURILI, J  
AUGUST 8, 2022**

**BETWEEN**

**SUJI OKUNGU HENRY ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application seeking sentence review, arising from conviction  
and sentence in Bondo PM Magistrates' Court Criminal Case No.  
E112/2022 by Hon. J.P. Nandi, Principal Magistrate on 15/3/2022)*

**RULING**

1. The convict is Henry Suji Okungu. He is a 28 year old young man who was sentenced to serve one (1) year imprisonment for the offence of assault causing actual bodily harm contrary to Section 251 of the [Penal Code](#). He pleaded guilty to the charge and was convicted and sentenced after mitigation and a presentence report filed in court on 15/3/2022 was considered by the court, which showed that the victim who is the convict's sister, and his father, were not willing to have him at home for a while, for him to reform as he was a menace and they feared for their own security.
2. I have now considered the Sentence Review Report filed on 2/8/2022 on the convict and his antecedents. It is clear that the convict has some illness which has not been attended to. He is a brilliant young man who scored a B+ in KCSE and joined Jomo Kenyatta University of Agriculture and Technology (JKUAT) for a professional course but to, date he has not graduated. He is psychologically affected especially now that he has not achieved his dreams in life. It is not clear whether his father has ever visited the university to establish the reasons why his son has never completed his studies from 2012.
3. The victim of the offence is said to be schizophrenic and is fearful of the violence meted on her by the convict. It is possible that the convict suffers from the same condition which has gone unattended.



The convict requires treatment to address his problem. He is said to be suffering from breathing problems, memory loss and panic attacks. That is an issue which needs to be attended to medically and psychological counseling is also necessary.

4. He has been in prison custody since March 2022 and is said to be well behaved. He is willing to reconcile with his family. He readily admitted the offence. Although the family says that he should serve a full term, one year in prison is a short prison term after which he will still have to return to his family at home as he has no other home. He depends wholly on his father. It is important that this court accords the convict an opportunity to make amends with his family which is the only family that he has and depends on.
5. This court is commanded by Article 159(2)(c) of *the Constitution* to promote alternative dispute resolution mechanism which include reconciliation, mediation and arbitration.
6. In addition, under Section 176 of the *Criminal Procedure Code*, parties are encouraged to reconcile in such cases as the one before the court. Even if the family of the convict claim that they are not ready to receive him and urge that he completes his sentence, it is obvious that he is about to complete the sentence and the only home he knows and family is that comprising the victim and their father upon whom he depends as their mother is deceased.
7. In the spirit of prison decongestion and to accord the convict an opportunity to reconcile with his sister and father and to seek for their forgiveness, I hereby order that the convict Henry Suji Okungu shall be released from prison forthwith to serve on probation for the remainder of his prison term, to be supervised by the Probation Officer, Bondo.
8. I so order.
9. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 8TH DAY OF AUGUST, 2022**

**R.E. ABURILI**

**JUDGE**

