MSO v Republic (Criminal Revision E030 of 2022)
[2022] KEHC 12840 (KLR) (8 August 2022) (Ruling)

Neutral citation: [2022] KEHC 12840 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT SIAYA

CRIMINAL REVISION E030 OF 2022

RE ABURILI, J

AUGUST 8, 2022

BETWEEN

MSO ..... APPLICANT

AND

REPUBLIC ..... RESPONDENT

(Being an Application seeking sentence review, arising from conviction and sentence in Bondo PM Magistrates' Court Criminal Case No. E1519/2021 by Hon. J.P. Nandi, Principal Magistrate on 27/9/2021)

RULING

1. The convict MSO was convicted and sentenced to serve two years imprisonment on 27/9/2021 for the offence of assault causing actual bodily harm. He has not appealed. He pleased guilty and was therefore convicted and sentenced on his own plea of guilty. No Presentence Report was ordered for consideration. He has already served 9 months imprisonment.

2. I have considered the Sentence Review Report filed on 2/8/2022. The convict is aged 20 years old. The victim of the offence is his guardian and grandmother MAO as his mother died leaving him and his younger sister.

3. From the Social Inquiry report, the convict never completed his formal education after he was convicted of the offence of incest and committed to Shikusa Borstal Institution at the age of 17 years where he served for one year and that he was still under licence when he committed the offence herein against his grandmother and caregiver hence, she is not willing to accept him and neither is his father and stepmother willing to accommodate him at home. He is unmarried and has no obligations to third parties as he depended wholly on his old grandmother and father.

4. He is said to have defiled his younger sister. He is reported to be ill mannered and quick to anger and very stubborn and disrespectful to the community members hence no one is ready to accept him back home.

5. His attitude on being interviewed is that of a carefree individualistic person who is not ready to accept his mistakes to reform and live in harmony with his family members and the community at large. He is not bothered about his failure. That it will be difficult to supervise him on a non-custodial sentence if released.

6. The Probation Officer recommends that the convict do serve his prison term fully.

7. Having considered all the circumstances under which the offence of assault against the victim caregiver to the convict and the social inquiry report on the convict, I hereby decline sentence review and order that the convict Michael Spencer Otieno shall serve and complete the prison term imposed on him.

8. File closed.

9. Orders accordingly.

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

R.E. ABURILI

JUDGE