



**Oyoo v Republic (Criminal Revision E048 of 2022)
[2022] KEHC 12818 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12818 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E048 OF 2022
RE ABURILI, J
AUGUST 8, 2022**

BETWEEN

MAURICE OWITI OYOO APPLICANT

AND

REPUBLIC RESPONDENT

((Being an Application seeking review of sentence, arising from conviction and sentence by Hon. J.P. Nandi, Principal Magistrate on 6/4/2022 in Bondo PM Magistrates' Court Criminal Case No. E162 of 2022))

RULING

1. The convict Maurice Owiti Oyoo was convicted and sentenced for the offence of assault causing bodily harm contrary to section 251 of the *Penal code*. He has served 3 months of the one year prison term, from 6/4/2022.
2. From the sentence review report, the convict is aged 33 years old. He was born in a family where there are very responsible people. He has gone to school and trained. He is the seventh born of 10 siblings. There is no indication as to whether he is married.
3. The victim of the offence is his own father who is skeptical of whether the convict is remorseful. The convict is described as an overbearing person who insists that his demands must be met and that he does not respect or listen to his father, contrary to societal norms. That he is very difficult to convince and is not easily forgiving his father whom he offended by assaulting him. The father is right in being fearful and bitter that his own son assaulted him.
4. However, the courts are called upon to promote alternative dispute resolution mechanisms including reconciliation, mediation and arbitration. This is what article 159(2)(c) of the *Constitution* commands us to do. In addition, in a case of this nature, where the convict is the son to the victim and he is not willing to ask for forgiveness, the courts should encourage reconciliation for peaceful coexistence of the



family members while appreciating that truancy and on the part of the convict, he is said to be willing to ask for forgiveness from his father, the victim of the offence and to drop his unwarranted demands.

5. The convict is said to be a partaker of drugs which could have influenced his behavior and the alleged unreported assaults. The offender is willing to change for the better. He has been in prison for close to 4 months now. Although the Probation Officer Ernest Kipruto does not recommends early release, I observe that there are no aggravating circumstances disclosed and the convict is willing to seek forgiveness and abstain from criminal tendencies which cannot and are not tolerated under the law. The law would take its course as against offenders even if the offender is given an opportunity to serve non-custodial sentences on conditions which are subsequently breached.
6. Children are commanded to obey their parents and earn blessings from God. It is absurd that children can turn against their parents and assault or harm them. The convict is 33 years old. He is not a minor. He knows what he is doing. He knows and ought to know and to have known the consequences of his violent actions which can lead to death even if not intended.
7. I shall accordingly accord the convict Maurice Owiti Oyoo the benefit of non-custodial sentence, in the spirit of prison decongestion, and give him a chance to seek for forgiveness and reconciliation from his victim, his father.
8. I order that the convict Maurice Owiti Oyoo shall be released from prison forthwith to serve unpaid community service at Bondo law courts under close supervision of the Principal Magistrate and Probation Officer, Bondo for the remainder of the prison term.
9. I so order. File closed.

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

R.E. ABURILI

JUDGE

