



REPUBLIC OF KENYA



**KENYA LAW**  
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**Yongo v Republic (Criminal Revision E039 of 2022)  
[2022] KEHC 12838 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12838 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E039 OF 2022  
RE ABURILI, J  
AUGUST 8, 2022**

**BETWEEN**

**COLLINS ODERA YONGO ALIAS COLLY ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application seeking sentence review, arising from conviction  
and sentence in Bondo PM Magistrates' Court Criminal Case No.  
1677/2021 by Hon. J.P. Nandi, Principal Magistrate on 6/4/2022)*

**RULING**

1. The convict is COY is aged 30 years old. He was convicted on his own plea of guilty for the offence of assault causing actual bodily harm contrary to section 251 of the [Penal Code](#) and sentenced to serve 12 months imprisonment after mitigation and a presentence report showing that he was unsuitable for non-custodial sentence. He has now served 5 months in prison.
2. I have considered the sentence review report. The convict is said to be unsuitable for non-custodial sentence. Of great concern is that right from the presentence report filed on March 7, 2022, the convict is alleged to be suffering from some form of mental illness and hallucinations. He does not associate with other inmates and neither is he concerned about life around him. That he has in the past been taken to a psychiatrist but declined. He comes from a family that is educated and they all seem to be responsible and concerned about his mental health but that they are all unwilling to take him back home. They request that the court does take him for mental treatment and that they are willing to pay for his treatment.
3. Jails are not for the sick and especially persons with mental health issues. That is why fellow inmates are said to laugh at the convict so he isolates himself from them because they call him mad.



4. Having considered the sentence review report, I am doubtful as to whether the convict had the necessary mental capacity to plead to the charge.
5. Nonetheless, it is the duty of his family members to make disclosures of the convict's mental state so that he can be assisted to be committed to a medical facility for treatment and not a prison where he cannot be rehabilitated from as nobody understands his condition.
6. For the above reasons, I order that the convict COY shall be released forthwith from prison and handed over to his father HYO who shall take him to the Siaya County Referral Psychiatrist for mental assessment and appropriate treatment recommended.
7. The convict shall at all times be under the care of and monitoring by his father HYO and the close family members. He is accordingly discharged from prison forthwith, and the probation officer, Bondo, to facilitate his discharge and release to his father.
8. Orders accordingly.
9. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF AUGUST, 2022**

**RE ABURILI**

**JUDGE**

