



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KABARNET**  
**CRIMINAL REVISION CASE NO. 1 OF 2020**

**KELLY KASES BUNJIKA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON REVISION**

1. The applicant seek revision of the sentence of the trial court in Eldama Ravine Principal Magistrate’s Court Criminal Case No. 958 of 2016 on assault causing actual bodily harm contrary to section 251 of the Penal Code so that a sentence of a fine is considered in the place of the custodial sentence of imprisonment for eights (8) months. At the sentencing, the prosecutor had informed the trial court of accused’s previous conviction and the applicant had mitigated before the court arrived at the sentence of imprisonment for eight (8) months.

2. The DPP does not oppose the revision and in written submissions thereon has urged as follows:

*“[T]he applicant herein was sentenced to serve 8 months imprisonment without the option of fine for the offence of assault c/s 251 of the penal code on the 27<sup>th</sup> of November 2018.....He has filed a revision requesting for a fine for the remainder of his sentence. However he was serving a sentence of 2 years in cr. case no 52/2016 for the offence escape from lawful custody. He completed the two years sentence on 29/2/2020 and the sentence of 8 months started running. **He is due for release on 9/8/2020. With remission, the applicant is therefore remaining with around 2 months and 10 days to serve. I therefore have no objection if the said sentence is reduced to the time already served.**”*

*E. Macharia*

*Ass. Director of Public Prosecutions*

*Baringo County.”*

3. The court has considered the application for revision and the DPP’s submission thereon. Although the trial court may have had good reason for not considering the option of a fine in view of the accused’s previous conviction; in view of the short period of custodial sentence remaining and the prevailing Justice Sector policy on decongestion of Prisons during the current Corona pandemic (Covid-2019) management period; and having regard to the DPP’s no objection to reduction of sentence, the court shall reduce the sentence to the period already served.

**Order**

4. Accordingly, for the reasons set out above, and in exercise of the court's power of revision under section 364 of the Criminal Procedure Code, the court revises the sentence passed on the applicant for the offence of assault causing actual bodily harm to the time already served so that the accused is released from custody forthwith unless he is otherwise lawfully held.

*Order accordingly.*

**DATED AND DELIVERED THIS 29<sup>TH</sup> DAY OF MAY 2020.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances:**

Applicant in Person.

Ms. Macharia, Ass. DPP for the Respondent.