



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NANYUKI**

**HCCR REVISION NO.20 OF 2016**

**HENRY MUTEMBEI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The applicant, **HENRY MUTEMBEI**, was convicted on his own plea of guilty to the **offence of possession of narcotic drug Contrary to Section 3 (2) (a) of the Narcotic Drugs and Psychotropic Substance Control Act**. He was sentenced before the Nanyuki Chief Magistrate's court to serve 18 months prison sentence. He has so far served 7 months of that sentence.
2. This matter is before me with a request to exercise this court's power of revision as provided under Section 362 of the Criminal Procedure Code Cap 75.
3. To assist this court consider revision a probation report on the applicant was availed. It reveals that the applicant who is 53 years old is a first offender. He is the sole bread winner of his children after his wife deserted the matrimonial home. He is remorseful and requests for the remainder of sentence to be non-custodial.
4. Having considered the probation report and the submissions of the prosecution counsel I find that this is a proper case to revise the applicant's sentence.
5. Accordingly I order HENRY MUTEMBEI to serve the remaining sentence doing Community Service at IMENTI Primary School. **To that end the applicant shall be released from custody unless otherwise lawfully held.**

**Dated and Delivered at Nanyuki this 20<sup>th</sup> April, 2016**

**MARY KASANGO**

**JUDGE**

**Coram**

Before Justice Mary Kasango

Court Assistant – Njue

For Applicant .....

For state .....

**COURT**

Ruling delivered in open court

**MARY KASANGO**

**JUDGE**