



**JNO v Republic (Criminal Revision E103 of 2024)
[2025] KEHC 1844 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1844 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E103 OF 2024
WA OKWANY, J
FEBRUARY 6, 2025**

BETWEEN

JNO APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original Conviction and Sentence in the Chief Magistrates’
Court at Keroka, Criminal Case No. MCCR E436 of 2024 by
Hon. C. Ombija, Senior Resident Magistrate on 28th June 2024)*

RULING

1. The Applicant was convicted on her own plea of guilty for the offence of failing to protect a child from neglect contrary to Section 13 (1) as read with Section 20 of the Children Act No. 20 of 2001. The trial court sentenced her to serve one (1) year imprisonment. The Applicant has served seven (7) months of her sentence and is remaining with 22 days after remission, to complete the sentence.
2. The Sentence Review Report filed on 5th February 2025 by the Probation Officer Mr. Nicholas Ng’etich does not recommend a non-custodial sentence. I have however perused the trial court’s record and noted that the Appellant was 28 years old at the time of sentencing and had three children aged 12, 9 and 3 years. This means that she had her first child when she was still a minor aged about 16 years old.
3. The sentence review report filed before the trial court indicated that the Applicant was married to one Zachariah Mingonge who is now deceased. I note that she is reported to be a habitual offender despite having been given several warnings by the area Chief.
4. My take is that even though the sentence review report does not recommend a non-custodial sentence, this court is of the view that as the defender of defender of human rights and the last port of call in matters of justice, the Applicant may still be granted a second chance to correct her mistakes. It is unfortunate that the Applicant, who is a widow and the sole bread winner for her young children



now faces outright condemnation and rejection from her own family. The court is of the view that the Applicant's troubled past may have resulted in deep-seated issues that may have led to her act of abandoning her children.

5. I am of the view that the Applicant's continued incarceration will not be beneficial to her and her young vulnerable children.
6. It's for the foregoing reasons that I direct that the Applicant be released from custody forthwith and that her issue be presented to the County Executive Committee Member for Gender, Youth, Sports, Culture and Social Services (CEC Gender) of Nyamira County Government in collaboration with the Probation Office for consideration and necessary action geared towards assisting the Applicant to secure an income earning activity so that she can fend for herself and her children. The Court also recommends that the Applicant be offered psycho-social support for her reintegration back into the society.

Orders accordingly.

DATED AND DELIVERED AT NYAMIRA ON THIS 6TH DAY OF FEBRUARY 2025.

W. A. OKWANY

JUDGE

