



REPUBLIC OF KENYA



**Omwancha v Republic (Criminal Revision E118 of 2023)
[2025] KEHC 1109 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1109 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E118 OF 2023
WA OKWANY, J
FEBRUARY 20, 2025**

BETWEEN

DOUGLAS OBEGI OMWANCHA APPLICANT

AND

REPUBLIC RESPONDENT

*(Being a Revision of the Sentence from the Chief Magistrates' Court at Nyamira CMCCR
No. 601 of 2020 by Hon. N. Njagi Principal Magistrate on 24th September 2014)*

RULING

1. The Applicant was convicted for the offence of grievous harm contrary to Section 234 of the [Penal Code](#). The trial court sentenced him to serve twenty (20) years' imprisonment. He has to date served ten (10) years and has 2 years and 4 months to serve, after remission, to complete his sentence.
2. The Applicant applied for a revision of his sentence and in a ruling delivered on 17th October 2024, this Court directed that the Probation Officer to prepare and file a Sentence Review Report for purposes of establishing the circumstances surrounding the case since the Lower Court record was reported to have been disposed of vide Gazette Notice No. 7359, IN Vol. CXX-No. 85 dated 20th July 2018.
3. The Probation Officer Mr. Nelson Maroa, filed a Victim Impact Statement and a Sentence Review Report dated 11th February 2025 which I have considered. The said report indicates that the victim before the trial court case is now deceased and his only surviving relative is his aged mother who stated that she had no demands or concerns relating to the case. the victim's mother was not averse to the revision of the Applicant's sentence and was agreeable to his unconditional release from prison. The Probation Report also recommends a non-custodial sentence.
4. I have considered the objectives of sentencing under the Judiciary Sentencing Guidelines (2016) which states that sentence must be commensurate to the offence committed. It is also trite that sentence that



is excessive neither serves the interests of justice nor society. (See S vs. Scott-Crossley 2008 (1) SACR 223 (SCA) at para 35).

5. This court is satisfied that the Applicant has benefited from rehabilitation during the long period that he has been in jail. I note that both the Applicant's family and community do not oppose his early release and are willing to assist in reintegrating him back to the society.
6. In light of the circumstances of this case and while the Probation Report recommends a non-custodial sentence with a Community Service Order (CSO), I hold the view that the period of ten years already served in prison is sufficient punishment for the offence that the Applicant committed and that there is no need for the Applicant to be placed under CSO.
7. Consequently, I hereby exercise the High Court's revisionary powers under Article 165 (6) and (7) and Sections 362 and 364 of the *Criminal Procedure Code* and allow the Application. The sentence of 20 years imprisonment term is revised to 10 years that the Applicant has already served. I therefore direct that the Applicant be released from custody forthwith unless he is otherwise lawfully held.
8. Orders accordingly.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NYAMIRA VIA MICROSOFT TEAMS THIS 20TH DAY OF FEBRUARY 2025.

W. A. OKWANY

JUDGE

