



**Kipchirchir v Republic (Revision Case E287 of 2024)
[2025] KEHC 6008 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6008 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
REVISION CASE E287 OF 2024
RN NYAKUNDI, J
MAY 13, 2025**

BETWEEN

VINCENT KIPCHIRCHIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with an offence of stealing a motor cycle contrary to section 278 of the penal code. The particulars of the offence are that on diverse dates between 24th day of December, 2023 and 25th day of December, 2023 at Annex-Thika road area in Kesses sub-county within Uasin Gishu County, stole one motor cycle make Boxer BM 150CC black in colour valued at Ksh 168,790/= the property of Collins Kiplagat
2. The Applicant at the trial pleaded guilty to the offence, duly convicted and sentenced to 4 years imprisonment on 9.1.2024. He has now approached this court to have the sentence reviewed under Section 357, 362, 364 of the CPC and within the provisions of Art. 50 2(P) (Q) & 6(A)&(B) of *the constitution*. In support of the Application is a Probation Officer's Report dated 2.5.2025 which states as follows: The inmate is the second born in a family of six siblings. He comes from a humble background where his parents and siblings engage in casual jobs to make ends meet. He is single with no dependents, prior to his arrest, he was working as a bodaboda operator where the offence occurred. Home inquiry reveal that he is a first offender and he has the support of his family who hope that the court will be lenient with him. They are ready and willing to assist in his rehabilitation and reintegration. His home report is good as he is not known to live a criminal lifestyle save for his offence. He has been tending to the vegetables in the prison and has gained additional skill in farming. The inmate now appreciates the rule of law and has learned the consequences of breaking the law. Upon release, he is going to utilize farming skills. The offender has expressed willingness to serve a non-custodial sentence. He regrets his offence and is willing change and be a law-abiding citizen. He takes



prison rehabilitation positively as he says he is now ready to start a new page. Your Lordship, the home environment for the inmate is conducive as his family are willing to assist in his reintegration. Our inquiry reveals that the complainant has no problem if the inmate is released earlier as he has forgotten him considering the remaining period, he will benefit from no custodial sentence.

3. With regard to this application, I place reliance on Chapter 4 of *the constitution* on the Bill of Rights, International Law, under Art, 2(5) & 6, Art 50(2) (P) (Q) & 6 (A) & (b) of *the constitution*. These provisions are construed together with Section 357, 362, 364, & 382 of the CPC. One of the key instruments of what they were discussing in this application is what is referred to as specific international instruments which provide safeguards on the use of non-custodial measures in the administration of justice. I have in mind
 - i. United Nations Standard Minimum Rules for Non-custodial measures (The Tokyo rules) 1990
 - ii. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985
 - iii. Declaration of Basic Principles of Justice for victims of Crime and abuse of Power, 1985
4. Sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender. Accordingly, they should neither be unduly harsh, in the sense of being incapable of objective justification by reference to the gravity of the crime. The offender's degree of blameworthiness and his or her antecedent data, nor unduly lenient, in the sense of causing outrage to reasonable expectation of what is the minimum required for the protection for the public.
5. After considering all the relevant factors and the legal principles, I am persuaded to exercise discretion of reviewing the custodial sentence and having substituted with a non-custodial sentence to be served on probation for the period of 2 years.
6. It is so ordered

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 13TH DAY OF MAY 2025.

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R. NYAKUNDI
JUDGE

