



**Komen & another v Republic (Criminal Revision E032 of 2025)  
[2025] KEHC 6003 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6003 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E032 OF 2025  
RN NYAKUNDI, J  
MAY 13, 2025**

**BETWEEN**

**JONATHN KOMEN ..... 1<sup>ST</sup> APPLICANT**

**KEVIN KIPTOO ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

Representation:

Sidi for the State

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 the 19<sup>th</sup> day of November, 2024 at around 1930hrs at Kiplombe area in Kimumu location Moiben sub county within Uasi Gishu County stole a motorcycle Registration number KMFA 744W make TVS HLX 650 (5 gears) read in col valued at Kshs 116000/= the property of Felix Kipkemboi Josgei.
2. The Applicant pleaded guilty and was sentenced to a fine of 50,000 or to serve 6 months imprisonment on 23.1.2025. He has now approached this court for review of sentence under Section 362 as read with 364 of the *CPC*
3. During the pendency of this application, a probation officer’s report was submitted to this court recommending as follows:

“Your Lordship, the inmate readily accepts responsibility for the offence committed and shows remorse. He promised to be a law abiding citizen. He is ready and willing to serve the remaining part of his sentence within the community. The family is willing to receive him



back home. We recommend that, the inmate be placed on a community service orders and serve at Kapyemit Chiefs Office for a period of 3 weeks

### **Resolution**

4. The sentencing policy guideline of the judiciary 2023, sets out the purposes, principles, and objectives of sentencing which includes inter alia.
  - i. To impose retribution- to punish to an extent or in a way which is just in all the circumstances
  - ii. To provide for the rehabilitation of offender
  - iii. To deter the offender from offending again (Special or personal deterrence)
  - iv. To deter others from committing the same or a similar offence (general deterrence)
  - v. To show the community that the impugned conduct is to be condemned.
  - vi. For the protection for the community
5. I have considered the historical litigation of this matter, and in terms of Art 50 (2) (P) (Q), 6(A) & (B) of the Constitution together with Section 357, 362, and 364 of the CPC the custodial sentence be and is hereby reviewed to be substituted with non-custodial to serve in a public institution by the name Kapyemit for a period of three (3) weeks.
6. It is so ordered.

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 13<sup>TH</sup> DAY OF MAY 2025**

.....

**R. NYAKUNDI**

**JUDGE**

