



**Mwanga v Republic (Revision Case E432 of 2024)  
[2025] KEHC 6000 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6000 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
REVISION CASE E432 OF 2024  
RN NYAKUNDI, J  
MAY 13, 2025**

**BETWEEN**

**HILLARY MUSERA MWANGA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with an offence of Stealing contrary to Section 268 as read with Section 275 of the *Penal Code*. The particulars of the offence are that on the 2<sup>nd</sup> day of August 2024, at west market in Turbo subcounty within uasin Gishu County stole assorted Mitumba clothing and woolen caps all valued at Kshs 13,300 the property of SRAH WANGARI WAMBUI
2. The Applicant pleaded guilty and was sentenced to 2 years imprisonment for the 1<sup>st</sup> count and 6 months imprisonment for the 2<sup>nd</sup> count. The sentences are to run concurrently. In the instant application, the Applicant has moved the court to review the sentence and have it substituted with a probation order of 7 months.
3. The Probation Officer's Report provides as follows: During his stint in prison, the offender has been engaged in farm work in Lumumba farm in Kiplombe. He specializes in planting flowers and maintaining them. He acquired basic farming skills from the farm work. He indicated that he intends to start a small business to make ends meet if he is released. The prison records indicate that the offender is fit for released. The family and community are willing to be part of the rehabilitation. The offender's family is willing to welcome him back home and help with his reintegration, local administration did not oppose his released on a non-custodial sentence. The offender before this honorable court is remorseful and understands the magnitude of his offence. He pleads with the court to grant him a non-custodial sentence. He claims that he has learnt his lesson and he plans to find a stable job and focus on building himself. The offender before this honourable court is a 24-year-old man from soy sub-county. He is married and has 1 child. He used to do casual work of loading, offloading and selling



clothes before his arrest. He is remorseful and pleads the court to offer him a chance at a non-custodial sentence.

4. In determining this question on revision of sentence, I rely on the following authorities. “ An appropriate sentence is a matter for the discretion of the sentencing judge. Each case presents its own facts upon which a judge exercises his discretion. It is the practice that as an appellate court his court will not normally interfere with the discretion of the sentencing judge unless the sentence is illegal, or unless court is satisfied that the sentence imposed by the trial judge was manifestly so excessive as to amount to an injustice *Ogala s/o Owara v R* (1954) 21 E.A.C.A 126 *R v Mohamedali Jamal* (1948) 15 E.A.C.A 126”
5. In the instant case in terms of Article 50 (2) (P) & (Q), 6(A) & (B) of *the constitution* as read conjunctively with Section 362 & 364 of the CPC the custodial sentence is reviewed and substituted with that of non-custodial of a probation order for 7 months having taken into account the elements of plea of guilty, the age of the offender, the nature of the offence, the mitigating factors, and that the Applicant has no previous conviction significant to this offence.
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**

