



**Otieno & another v Republic (Criminal Revision E475 of 2024)  
[2025] KEHC 6024 (KLR) (12 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6024 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E475 OF 2024  
RN NYAKUNDI, J  
MAY 12, 2025**

**BETWEEN**

**LAWRENCE OTIENO ..... 1<sup>ST</sup> APPLICANT**

**NYAWADE ALIAS LAWI ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant herein was charged with the offence of being in possession of Cannabis Sativa Contrary to Section 3 (1) as read with Section 3(2) (2) (a) of the [Narcotic Drugs and Psychotropic Substances Control Act](#) No 3 of 2022. The particulars of the offence are that on the 5<sup>th</sup> day of July 2024 at about 2000 hrs at Judea area in Turbo sub county within Uasin Gishu county was found in possession of cannabis sativa (bhang) to wit 15 gms of 30 rolls with a street value of Kshs 1,500 which was not medially prepared.
2. The Applicant in this case pleaded guilty to the offence in which he was convicted and sentenced to 2 years imprisonment. In the Social Inquiry Report, it is stated as follows: “The offender takes prison rehabilitation positively. The period he has been in prison he has learnt his lesson and promises to be law abiding. He is willing to cooperate in serving a non custodial sentence as this will also be an opportunity to continue his life and reunite with his young family. Your Lordship, the inmate is remorseful and prays for leniency from the honourable court. He regrets committing the offence and is willing to serve non-custodial sentence. Your Lordship, considering his home report, we recommend him to serve community service. During this period, we will ensure he abides by the conditions of the order and Guide and counsel him as per his needs.



3. From the facts of this case, this is a drug related case and there is no evidence that applicant was trafficking of the prohibited drug and substances commonly known as canavis sativa. Yes from the facts he was found with 30 roles of the drug valued at Kshs 1500.
4. This application for review of sentence is being considered against the backdrop of the principles in the Benard Gacheru case 2002 (eKLR). Similarly the persuasive case in Santa Singh vs State of Punjab (1976) 4 SCC190 “ a proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances extenuating or aggravation of the offence, the prior criminal record if any, of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, society and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community. The possibility of that sentence may serve as a deterrent to crime by the offender or by other and the current community need, if any for even a deterrent in respect to the particular type of officer.
5. I have reviewed the evidence in this matter and the trial court record together with the recommendations by the probation officer I am of the considered view that there is sufficient cause to review the custodial sentence and have it substituted with that of community service sentence for the remaining period of Nine (9) months. The community Service Officer shall file quarterly reports on the performance of the Applicant in serving the sentence. This decision has been made pursuant to Article 50 (2) (P), (Q) and 6(A) & (B) of the constitution.
6. It is so ordered.

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 12<sup>TH</sup> DAY OF MAY 2025**

.....

**R. NYAKUNDI**

**JUDGE**

