



**Hussein alias Dudu Baya v Republic (Criminal Revision
E096 of 2025) [2025] KEHC 10512 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10512 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E096 OF 2025
RN NYAKUNDI, J
JULY 21, 2025**

BETWEEN

GEOFFREY ABIB HUSSEIN ALIAS DUDU BAYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged of assault causing actual bodily harm. The brief facts are on 19th day of May 2025 at around 1400hrs at Langas estate in Kapseret sub-county within Uasin Gishu county, unlawfully assaulted Irene Nyanchoka thereby occasioning her actual bodily harm. He pleaded guilty to the offence convicted and sentenced to 12 months imprisonment. He has now applied for his sentence to be reviewed and the remainder of the sentence of 7 months at Langas Police Station.

Decision

2. Sentencing is the ultimate goal of any fair and proportionate criminal justice system. One of the key tools used as yard stick in sentencing process is the sentencing policy guideline of the judiciary 2023. Therefore, the level of our court system tasked with the mandate to adjudicate criminal cases as enshrined in Art 50 (1) of the Constitution is to bear in mind the following principles:

Proportionality

The sentence meted out must be proportionate to the offending behavior meaning it must not be more or less than is merited in view of the gravity of the offence. Proportionality of the sentence to the offending behavior is weighted in view of the actual, foreseeable and intended impact of the offence as well as the responsibility of the offender:

Equality/Uniformity/Parity/Consistency/Impartiality



The same sentences should be imposed for same offences committed by offenders in similar circumstances

Accountability and Transparency

The reasoning behind the determination of sentence should be clearly set out and in accordance with the law and the sentencing principles laid out in these guidelines

Inclusiveness

Both the offender and the victim should participate in and inform the sentencing process

Totality of the sentence

The sentence passed for offenders convicted for multiple counts must be just and proportionate, taking into account the offending behavior as a whole

3. In the same jurisprudential trajectory the objectives of sentencing remain trite and drivers of exercising discretion at trial court or appeals court. Thus:

Retribution

To punish the offender for their criminal conduct in a just manner

Deterrence

To deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing offences

Rehabilitation

To enable the offender to reform from his/her criminal disposition and become a law-abiding person

Restorative justice

To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs.

Community protection

To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts

Denunciation

To clearly communicate the community's condemnation of the criminal conduct

Reconciliation

To mend the relationship between the offender, the victim and the community

Reintegration

To facilitate the re-entry of the offender into the society

4. The application before this court is based on the social inquiry report on post-conviction review on sentence. The inquiry which has a bearing on review of sentence capture the following parameters:

Introduction and Sources of Information

Prison records inmate's family, community and the complainant



Current Home and Personal Circumstances

The inmate is the son of Oliver Atenye and Rukia Babra. He is the first born in a family of four siblings. The others are Hussein Abdala, Kassim Hussein and Dasu Hussein. They all live in a rental house in Langas with the father as the provider. The inmate was born in 2005. He attended Borum Clover Primary school until class 6 in 2018 where he dropped out due to lack of school fees. He then started selling coffee on the streets until he got a roadwork job sponsored by the world bank where he worked until the day of his arrest.

Prison Assessment, Rehabilitation and Re-integration

The inmate has gained farming skills gained from his work at Lumumba Farm. He has also gained some tailoring skills which he wishes to apply at some point in the future. If released, he is planning to go back to selling coffee to assist his family make ends meet as he figures out how to apply the skills he has gained. He has also stated that while in prison he has learnt on ways to reduce anger and avoid meaningless confrontations.

We interviewed his father Oliver Tanye who asserted that the environment at home is suitable for him to reintegrate well, and also that the complainant has since forgiven him and has no bad blood with him or his family.

Offenders' Attitude and Impact of Imprisonment

The inmate is ecstatic about the notion of early release and states that the sentence has impacted him positively. He pleads with the court to grant him early release so that he can be able to help his family and build his own future.

Conclusion

Your Lordship, the above inmate is a 20-year-old man who was convicted for the offence of Assault causing actual bodily harm contrary to section 251 of *Penal Code*. He is remorseful and has used the month in prison to make himself a better person. His family is willing to help him reintegrate well back into the society. The Complainant has no opposition to his early release. He is of sound mind and has a fixed abode.

5. This review application is also an opportunity for a court to think more imaginatively how we sentence and use custody holding the view that our current system regardless of prison capacity pressures requires considerable reform to rehabilitate offenders or as it is for this case a convict more successfully to reduce a re-offending and support victims. The purposes of sentencing as set out in the sentencing policy are punishment, reduction of crime, reparation, rehabilitation and public protection. It is time the government revisits the statutory purposes of sentencing in the current framework which is designed to give more weight to custodial sentences as an essential tenet of the criminal justice system. There is insufficient focus to reduce crime so that custody sentences are only used as appropriate and as a last resort.
6. The evidence submitted before this court from the social inquiry report supports community service order which is non-custodial in nature and tailored to reintegrate the applicant to community based rehabilitation. In essence he shall serve 7 months at Langas Police Station under the supervision of the OCS who must ensure that meaningful public service has been carried out as provided for in the Order of committal by this court. It is so ordered.

DATED, SIGNED AND DELIVERED VIA CTS THIS THIS 21ST DAY OF JULY, 2025.

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R. NYAKUNDI
JUDGE

