



**Okonbe v Republic (Criminal Miscellaneous Application
E010 of 2024) [2024] KEHC 935 (KLR) (7 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 935 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL MISCELLANEOUS APPLICATION E010 OF 2024**

JN KAMAU, J

FEBRUARY 7, 2024

BETWEEN

BRIAN OKONBE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. I have looked at the Applicant’s application for sentence review that was dated and filed on 22nd January 2024. I have heard him and noted that he is a teenager. He is aged nineteen (19) years going to twenty (20) years. He has a wife who is expectant.
2. I have looked at the Probation Report of J. Sahani Senior Probation Officer Vihiga that was dated 15th January 2024 and noted that it had recommended a non-custodial sentence. Whereas the Trial Court cannot be faulted for having sentenced the applicant to nine (9) months imprisonment as it had the discretion on sentencing.
3. I have listened to the applicant, counsel for the respondents and the probation officer and I am persuaded that it would be in the interests of justice to review the sentence that was imposed on the Applicant to give him an opportunity to be reintegrated back to the security as the Complainant, community, local administration the Respondent and the Probation Officer were not opposed to him being given an opportunity for community rehabilitation.
4. As he has served a part of his sentence, it would be punitive to order him to compensate the Complainants. The court is also considering directing that he be placed on Probation which itself is a sentence.
5. As he is unemployed and has been incarcerated, it will cause challenges to this court to monitor the payments. It would be more prudent to mete out a sentence in whatever form. Going further, as he



was sentenced to nine (9) months in prison, it would also be punitive to sentence him to two (2) years probation.

Disposition

6. It is hereby direct as follows:-
 1. That the sentence of nine (9) months that was meted out upon the Applicant be and is hereby set aside and/or vacated and replaced with a Probation order with effect from today.
 2. That the Applicant be and is hereby released from custody forthwith, unless he be held for any other lawful cause, and placed in the hands of Probation Office Vihiga to serve a Probation sentence for the remainder of the term of his sentence until 5/7/2024.
 3. That the file to be closed forthwith.
7. Orders accordingly.

DATED AND DELIVERED AT VIHIGA THIS 7TH DAY OF FEBRUARY 2024

J. KAMAU
JUDGE

