



**Karori & another v Republic (Criminal Revision E091 of 2024)  
[2024] KEHC 4278 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4278 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E091 OF 2024  
RN NYAKUNDI, J  
APRIL 11, 2024**

**BETWEEN**

**ISAAC MUSEVE KARORI ..... 1<sup>ST</sup> APPLICANT**

**PATRICK ZINGA ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

**Representation:**

Mark Mugun for the state

1. The applicants were charged with the offence of burglary contrary to section 304(2) and stealing contrary to section 279(b) of the *penal code*. The particulars of the offence were that on the night of 9<sup>th</sup> November, 2023 at Kambi Mwangi area in Turbo Sub-County within Uasin Gishu County, the applicants jointly with others not before court, broke and entered the dwelling house of Timothy Kiplagat with the intent to steal and did steal two cooking gas cylinders, 6kgs and 13kgs, two mattresses, two suit cases assorted clothes, one woofer Sony, utensils, a blender, two plastic chairs and window curtains valued at 60,000/=, the property of Timothy Kiplagat.
2. The applicants pleaded guilty to the offence before Hon. P. Areri on 17<sup>th</sup> November, 2023 and as a consequence, they were convicted on their own plea of guilty and sentenced to serve three years imprisonment on each limb and the sentence could run concurrently.
3. The applicants have approached this court pursuant to sections 357,362,364& 382 of the Criminal Procedure Code as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6) (a)&(b) of *the Constitution*.



4. The applicants seek a sentence review. That they may serve a non-custodial sentence. The probation officer filed a report dated 27<sup>th</sup> November, 2023. The said report is non-responsive. The probation officer stated that the 1<sup>st</sup> applicant's family regarded him negatively while noting that he is a repeat offender. They want him imprisoned to assist him change his behavior.
5. The probation officer recommended that from its findings, the 1<sup>st</sup> applicant is not fit to serve a non-custodial sentence. That the community is not favorable to his rehabilitation.
6. As for the 2<sup>nd</sup> applicant, he is 36 years old and married. He is engaged in casual labor to earn a living. According to the probation officer report, his family regarded him positively but is concerned with his anti-social peers. They asked for leniency from the court. The Probation officer on his part recommended that the 2<sup>nd</sup> applicant is not fit for non-custodial sentence.
7. Interestingly, the applicants declined to be interviewed to give way for an inquiry report which could have established whether they are suitable to serve a non-custodial sentence. The application therefore lacks merit and it is dismissed pursuant to section 382 of the CPC. For avoidance of doubt, the applicants by dint of the trial magistrate's order shall serve the full custodial sentence.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 11<sup>TH</sup> DAY OF APRIL 2024.**

.....

**R. NYAKUNDI**

**JUDGE**

