



**Mulika v Republic (Criminal Revision E016 of 2024)
[2024] KEHC 3423 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3423 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E016 OF 2024
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

PATRICK MUKONYI MULIKA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for revision of sentence in criminal case no. E275 of 2022 before Hon. Odenyo – (SPM) dated 17th march 2022)

RULING

Representation:

Mark Mugun for the state

1. The applicant was charged, tried, convicted and sentenced to 5 years imprisonment on 2 counts of the offence of housebreaking contrary to section 304(1)(b) of the Penal Code.
2. The applicant has 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 and further taking into account the Probation Officer’s report dated the 22nd day of March 2024,the sentence so imposed by the learned trial Magistrate be and is hereby reviewed to a period of 16 months to be served on probation to enhance rehabilitation and transformation of the applicant.
3. One of the key highlights flows from the recommendation from the report contextualized in the following language

“Our interview with the prison administration indicates that the inmate has reformed and is well behaved. The interview with the complainant revealed that he is not opposed to



him being granted sentence review with the hope that he has reformed. Our interview with the local administrators indicates that the inmate can be considered for a sentence review because he is a first offender”

4. The nucleus of any correctional system is its rehabilitative and reparative functions and in the famous words of Lord Hewart, Justice must not only be done, but must also be seen to be done”. This dictum was laid down in the case of *Rex v. Sussex Justices*, [1924] 1 KB 256. The empirical evidence in this matter shows that the offender has been rehabilitated and is reformed, ready for re-integration into the society. The complainant further feels that justice has been served, as cited in his response to the Probation Officer’s interview for review of the applicant’s sentence.
5. In view of the foregoing, I am persuaded by the Probation officer’s report that this a fit case for a non-custodial sentence in so far as the balance of the custodial sentence already served is concerned, as imposed by the trial court. As a consequence, the sentence stands reviewed by this Court for the applicant to serve 16 months on probation at Namakara Primary School. This being a supervisory jurisdiction imposed upon the Probation officer, periodical reports on the performance of the applicant shall be submitted to the Court every 4 months during the probation period for compliance with the Probation order.

SIGNED, DATED AND DELIVERED AT ELDORET THIS 11TH DAY OF APRIL 2024.

R. NYAKUNDI

JUDGE

