



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Ngochi v Republic (Criminal Revision E232 of 2023)
[2024] KEHC 3425 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3425 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E232 OF 2023
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

DUNCAN NGOCHI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and sentenced on his own plea of guilty to 2 years imprisonment for the offence of driving a motor vehicle while under the influence of alcohol contrary to section 44 as read with section 44(2) of the *Traffic* Cap 403 laws of Kenya.
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*.
3. The applicant seeks a sentence review based on the Probation sentence report filed on 26th March, 2024. The report is positive and recommends him for a community service order at Langas Police station.
4. The applicant admits to this offence, he is remorseful and is willing to serve a non-custodial sentence. The nucleus of any correctional system is its rehabilitative and reparative functions.
5. In my considered view and taking into consideration the probation report, the period served by the applicant has shaped his character. The remaining period of 5 months can be utilized through a non-custodial sentence. The family is ready to receive him back home even as he works on completing his non-custodial sentence. I believe the applicant is suitable for a non-custodial sentence. A community service order is therefore efficient for the remaining period. He is directed to serve the same for five months at Langas Police station. During this period, the probation officer is obligated to file monthly reports in court in ensuring compliance of the sentence and its effectiveness.



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

.....

R. NYAKUNDI

JUDGE

