



REPUBLIC OF KENYA



KENYA LAW
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**Mwendwa v Republic (Criminal Revision E131 of 2024)
[2024] KEHC 17178 (KLR) (11 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 17178 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL REVISION E131 OF 2024**

TM MATHEKA, J

MAY 11, 2024

BETWEEN

DAVID MWENDWA APPLICANT

AND

THE REPUBLIC RESPONDENT

RULING

Revision From Makueni MCCRC E537 OF 2023

1. Upon perusal of the file and the Probation Officer's Report
2. the offender is serving 3 yr imprisonment sentence for assault causing actual bodily harm. His father was the victim.
3. the offender is 21 years old.
4. He is described as being not remorseful, inflated ego, sense of entitlement
5. the father expressed forgiveness, the family was willing to take him for counselling and they are ready to take him in and do what it takes to rehabilitate him
6. the trial court formed the view that because he was not remorseful then, prison was the solution.
7. In the circumstances of this case and the report, that was not appropriate. It is evident that the family is aware of the underlying issues causing the offender's behaviour and are willing ready and able to assist.
8. For a first and youthful offender the trial court ought to have taken into consideration all the circumstances of the offence and the available non custodial sentences that would address these issues. The Probation Officer in this case did not listen to the victim, relied on information that was not pertinent to the charge facing the accused to arrive at the recommendation he made.



9. In the circumstances, this was not a suitable case for custodial sentence. It was a case suitable for AJS. Hence the prison term is revised to a Probation Supervision Order.
10. The offender will subject himself to counselling during that period and directed by the father in conjunction with the Probation Officer.
11. the offender will report to the Probation Office Makueni every month on a date to be agreed on with the Probation Officer.
12. The matter be mentioned before the DR after three months for progress report on 12th August 2024
In default there will be consequences including the setting aside of the Probation order
A Probation Order to Issue Accordingly

SIGNED BY: LADY JUSTICE MATHEKA, TERESIA MUMBUA

THE JUDICIARY OF KENYA.

MAKUENI HIGH COURT

HIGH COURT DIV

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