



**Nyang'au v Republic (Criminal Revision E083 of 2024)  
[2024] KEHC 6552 (KLR) (13 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6552 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL REVISION E083 OF 2024**

**WA OKWANY, J**

**MAY 13, 2024**

**BETWEEN**

**MESA KEBESE NYANG'AU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original Conviction and Sentence in the Chief Magistrates'  
Court at Nyamira, Criminal Case No. MCCR 15 of 2020 by  
Hon. C.W. Waswa, Resident Magistrate on 27th June 2023)*

**RULING**

1. The Applicant was convicted for the offence of assault causing actual bodily harm contrary to Section 251 of the *Penal Code*, Cap 63 Laws of Kenya. The trial court ordered him to compensate the complainant in the sum of Kshs. 120,000/= or serve 2 year's imprisonment in default. The Applicant has served 9 months of his sentence. The Sentence Review Report filed on 3<sup>rd</sup> April 2024 by the Probation Officer Nelson Maroa indicates that the Applicant has 7 months to complete his sentence. At the same time, this Court notes that there is an active Appeal vide HCCRA E026 of 2023 before it. The Applicant cannot seek a review of his sentence and appeal the decision of the trial court concurrently. In the circumstances, I find that the present Application is misconceived and I therefore dismiss it. The Applicant shall continue to serve the remainder of his sentence in custody as he awaits the determination of his appeal.

Orders accordingly.

**DATED AND DELIVERED AT NYAMIRA ON THIS 13<sup>TH</sup> DAY OF MAY 2024.**

**W. A. OKWANY**

**JUDGE**

