



REPUBLIC OF KENYA



KENYA LAW
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**Nyanja v Republic (Criminal Revision E020 of 2024)
[2024] KEHC 4708 (KLR) (7 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 4708 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E020 OF 2024**

RE ABURILI, J

MAY 7, 2024

BETWEEN

HESBON OCHIENG NYANJA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an appeal against original conviction and sentence imposed by the Court Martial sitting at Kahawa Garrison delivered on 8th September 2023 in Court Martial case no. 16 of 2022 Republic vs Francis Mechuki Korosian)

RULING

1. The offender Hesbon Ochieng Nyanja was convicted of offence of assault causing actual bodily harm.
2. He was sentenced to serve 5 years' imprisonment *vide* Maseno SPM Criminal Case No. E290 of 2023.
3. He pleaded guilty to the charge. His victim was his own sister, Jane Adhiambo Nyanja. There was a presentence report prior to his being sentenced. The report revealed that the convict is a so troublesome to his family and he is a former convict. He readily admitted that he served two non-custodial sentences for creating disturbance and malicious damage to property.
4. The presentence Review Report filed herein on 27th March 2024 still shows that he is not suitable for non-custodial sentence.
5. He has served about 8 months of the 5 years' imprisonment. This period is not sufficient to reform and or rehabilitate him noting that he is a grave danger to his own family members who would ordinarily come to his rescue when he is in trouble. There are no mitigating factors for review of the sentence lawfully meted out.
6. I decline to review the sentence imposed. Let the convict serve atleast three years in prison before the court can consider sentence review under prison decongestion exercise.



7. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF MAY, 2024.

R. E. ABURILI

JUDGE

