



**Ouma v Republic (Criminal Revision E147 of 2024)  
[2024] KEHC 6707 (KLR) (7 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6707 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E147 OF 2024  
RN NYAKUNDI, J  
JUNE 7, 2024**

**BETWEEN**

**CHARLES OUMA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged with the offence of Malicious damage to property contrary to section 339(1) of the *Penal Code*. The particulars of the offence are that on 11<sup>th</sup> April, 2024 at about 1000hrs in yellow line area, Langas estate in Kapseret sub county within Uasin Gishu county, the applicant willfully and unlawfully damaged the three windowpane and one door all valued at Kshs. 5000/= the property of David Maina.
2. The applicant pleaded guilty to the offence before Hon. C. Kesse on 15<sup>th</sup> April, 2024 and as a consequence, he was convicted on his own plea of guilty and sentenced to 3 months imprisonment.
3. 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) and conjunctively read with Article 50(6)(a) &(b) of the *Constitution*.
4. The applicant seeks a sentence review based on the sentence review report on record. The report is favorable. It is reported that during the period the applicant has been in custody he has been able to gain some farming skills. The report indicated that the applicant has expressed remorse over the offence. The officer recommended that the applicant is suitable to be given a chance to serve a non-custodial sentence and to this end it was proposed that he performs community service at Langas police station for the remaining period of three weeks.



- 5. Before imposing a non-custodial sentence, the court should consider the gravity of the offence, criminal history of the offender, character of the offender, protection of the community and the offender’s responsibilities to third parties.
- 6. Further to the aforementioned, the Community Service Orders Act makes it possible for courts to issue an order requiring the offender to perform community service. This option is available to court when the offender is convicted of an offence punishable by imprisonment for a term not exceeding three years or imprisonment for a term exceeding three years but for which the court determines that any of that term as would be appropriate be served within the community on unpaid public works.
- 7. The instant offence is one I believe that can be punishable by a non-custodial sentence. A non-custodial sentence should have been considered by the sentencing court. Most importantly, I am of the considered view that in such offences, the courts ought to embrace victim-offender mediation. To this end, I believe the period served by the applicant in prison has shaped his character and he has appreciated the importance of being a law-abiding sentence.
- 8. Having gone through the record, and conscious of the objectives of sentencing, I am persuaded that the applicant has learned a lesson for the duration served in custody. He has a remainder of 3 weeks to completion. The sentence be and is hereby reviewed to the period already served. The applicant shall be set at liberty, unless he is otherwise lawfully held.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 7<sup>TH</sup> DAY OF JUNE 2024.**

.....

**R. NYAKUNDI**  
**JUDGE**

