Mulu v Republic (Criminal Appeal E042 of 2023)
[2024] KEHC 8576 (KLR) (17 July 2024) (Judgment)

Neutral citation: [2024] KEHC 8576 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KITUI

CRIMINAL APPEAL E042 OF 2023

FROO OLEL, J

JULY 17, 2024

BETWEEN

MUSYOKA MBALUKA MULU ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

(Being an appeal of the conviction and sentence arising in Mutomo Sexual Offence case number E004 of 2022 delivered on 5th September 2023 by Hon P.M. Mayova, Principal Magistrate)

JUDGMENT

A. Introduction

1. The Appellant was charged with defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act* No 3 of 2006.The particulars of the offence were that on the 21st day of May 2022 at around 15.30 hours at (Particulars withheld) sub location (Particulars withheld) sub county within Kitui County, intentionally caused his penis to penetrated the vagina of P.M.J a juvenile aged 4 years.

2. In the alternative, the Appellant was charged with committing an indecent act with a child contrary to section 11(1) of the *Sexual Offences Act* No 3 of 2006.The particulars of the offence were that on the 21st day of May 2022 at around 15.30 hours at Kitui County, intentionally and unlawfully committed an indecent act by causing his penis to touch the vagina of P.M.J. a juvenile aged 4 years.

B. Facts At Trial

3. The Appellant took plea on 23.05.2022, denied the charges and a plea of not guilty was entered.PW1 DNS stated that on 21.5.2022 at around 3.00pm she decided to the posho mill and on her way back she met one neighbours Rose Musili, with whom they spoke and then she proceeded back home. At her gate she saw foot prints resembling hers and wondered if someone had stolen her shoes and left with them. She went to the closet where she kept her shoes and saw them intact. She then asked her

daughter RJ, who had been to the house after she left, and she told her that there was an unknown visitor, who had come and had worn red shoes resembling her shoes. Further the visitor had told them that he is in need of 'Kuma' (vagina). Her daughter had become afraid and fled to the bush leaving other children behind.

4. PW1 in shock started to search for her other children. She got to her bedroom and found her daughter M lying on the floor wearing a blouse only, her trouser had been removed and she was bleeding from her vagina, while her other child J was asleep on the same bed. she picked up her child, M and went out screaming to Rose telling her that her child had been defiled. She also took a leso and wrapped her child. Rose came and put a dress between the legs of the girl to control her bleeding. Her other neighbours Salome, Mariam and Maria also attracted by her screams came to assist her.

5. She left her neighbours, who had rushed to help her, with her children and she followed the footsteps to find out who had defiled her daughter. She was accompanied by Mirriam. At a center known as Yanzati they met some men and asked them if they had seen a man wearing the shoes they were following. They told her, they had not seen such a person, and she requested them to join her trace him as he had defiled her child. They followed the footsteps all the way to the tarmac, where they met a bodaboda rider and upon inquiry, he told them that he had heard one Maundu speaking to someone in Kyoani asking for fare to go to Mombasa and, when asked how he would return the money lent, he had stated that he would return the money when he come back to pick his clothes.

6. PW1 reckoned that he must have been the person who defiled her daughter and was intent on fleeing away from justice. They went to Kyoani where they found two police men and members of the public having surrounded a man. She was asked if she was mama M to which she confirmed and she was let in to the building where the man was being held. She saw a man in a black trouser and red shoe that she had been told by her daughter and realised she knew him because he had been a herdsman at the neighbour, Mary's place. Later on she went to Mutomo Level 4 hospital where they found M, her grandmother and two doctors. Her daughter had been treated and had to be stitched on her private part since it had been raptured during the forceful intercourse.

7. Her daughter (PW2) had told her that the man who defiled her had slept on her chest and she had felt lot of pain on her genitalia. PW2 had also told her that she could identify the person who harmed her, by facial recognition and also mentioned that she saw the red shoes he was wearing. PW1 concluded her evidence by stating that her child was born on 7.01.2018, and was aged 4 years at the time of the incident. Her daughter PW2, had been extremely traumatized by what had happened to her and had to undergo continuous counselling to help her cope. She identified the appellant in court and stated that though she did not know his name, she had been seeing him for about a month herding at Mary's place. She had no past grudge with the accused.

8. PW2, P.W after voire dire examination, was allowed to give unsworn evidence. She stated that she was injured in her private part by someone she could see was within the courtroom. It was her testimony that the assailant found her in the house, removed her shirt and trouser, before her laying on her private part. The assailant had red shoes resembling that of her mother. She further confirmed that she had previously seen the appellant at Mary's home and pointed at him in court to identify him as the person who defiled her. She concluded by stating that she had not been coached by anyone to state what transpired, and her evidence was the truth of what had occurred. Upon cross examination she stated that she did not scream during the incident.

9. PW3 RJ , underwent voire dire examination and was allowed to give unsworn evidence. She recalled that on the day of the incident, she was at home with PW2 and her younger brother J. A man came and told them that he wanted "vagina". The said man wore a black shirt and red shoes resembling her

mothers' shoes. She feared, and fled to the bush leaving behind her sibling inside the house. Later when she returned home, and found that the man had left. She had not known the assailant before, but he was the accused person before court. She had seen him for the first time on the day of the incident.

10. PW4, RM testified that that on 21.7.2022 she was in the shamba working for her boss, where she was called by PW1 who greeted her and after exchanging pleasantries for a while PW1 proceeded to her home. Soon thereafter, she heard PW1's screaming and saying that her child had been defiled. She rushed to see what had transpired and found the PW1's child on the floor looking bad, had bleeding injuries on her genitalia. The child had only a blouse on, she tied PW2 with a cloth/leso and helped PW1 raise her mother in law, through phone. When her mother in law came, they directed her to report the incident to the police and take the minor to hospital.

11. In the meanwhile, PW1 and Muluki had left and were following the footsteps she had seen from her home. She later heard that one Musyoka, the defiler had been arrested at Kyoani. She identified the accused person on the dock and indicated that she knew him as he used to work within their village and had to see him heard animals. She also indicated that she held no grudge against him. Upon cross examination, she stated that the footprints seen were his and they tracked him down and had him arrested at Kyoani.

12. PW5, RM testified that 21.5.2022 at about 3.30pm she was called by PW4 who told her to go home on a motorbike as PW2 had been defiled. She met PW1 on the road following the assailant's footsteps. She proceeded home and found PW2 in a very bad state, she could not talk, and her genitalia had been torn. She took the child to the police station and with two police officers took the child to Mutomo general hospital where she was treated. Later, while at the hospital, she was told the defiler had been arrested and he too had been brought to the same hospital. PW2 had confided in her and told her that she had been defiled by Musyoka Mbaluka, a person who they had been seeing, while coming from school. Upon cross examination PW5 affirmed that it is the accused who defiled had the child and was arrested on the same day at Kyoani.

13. PW6 Rose Mutinda, was a clinical officer based at Mutomo sub county Hospital and was the county appointed GBVC and children liaison person at the Hospital where she worked. On 21.5.2022 she had left work and was called back to the hospital as there was a critical case that needed teamwork. She rushed back to hospital, where she saw the accused person aged 38 years and the victim who was 4 years old. She examined the accused person. His penile tissue had fresh blood stains with soil and sand on the penile shaft and testicles. They undertook Laboratory investigations which indicated that urinalysis and HIV tests was both negative.

14. PW6 also had treatment notes filled by her colleague one Martin Muia, who they had worked together as colleagues since 2019. He was the one who initially treated the minor, but PW6 confirmed that she had been present when he took the notes of the child. The victim (PW2) had been brought in on 21.5.2022 at 6.15pm by Police and grandmother, and she had given the history that the minor had been defiled by a neighbour. She had been found on the floor half naked and was bleeding profusely from her private parts. Besides the child she had found a jacket soaked in blood.

15. On examination the child was found to be s sleepy and had a fever of 37.9 degrees. She was half naked, bleeding actively and was wearing a blouse, which was soiled. The pubic region had blood stains within the vulva. The vaginal wall had 3rd degree tear with moderated vaginal bleeding. The hymen was broken. Lab investigation indicated that HIV was negative, there was spermatozoa seen on conducting urinalysis. 10-15 RVS seen, glucose level was normal, HVS examination again showed spermatozoa, numerous red blood cells seen, epithelial cells were 3-4 (wear of the vaginal wall after sex). They stitched

the vagina under local anaesthesia and the victim was referred to Kitui County referral hospital for further tests, particularly fistula and psychological counselling by a professional.

16. PW6 further stated that she followed up on the case and ensured the child was put through to psychologist to assist her undergoing counselling. The gynaecologist had also informed her that there was no fistula. She filled the P3 from and the PRC from on 23.05.2022 and confirmed that nature of offence was defilement, there was proven penetration with third degree tear, the degree of injury assessed as grievous harm since the child had to undergo stitching in theatre. Further she confirmed that she had examined the accused person, whom she had never met before and that the police had identified him as the perpetrator of the heinous Act.

17. PW6 produced the treatment notes, P3 form and PRC form of PW2, and treatment notes of the Appellant as Exhibits. Upon cross examination, PW6 stated that the blood on the penis of the Appellant was fresh and she was able to wipe it off and if it has stayed for long, it would have been hard to remove. She further stated that his clothes had no blood, just the penis.

18. PW7, PC EUNICE JAKOYO of Mutomo police station stated that on 21.5.2022 at around 17.01 hours she was requested by the OCS to go to the report office. When she arrived, she found the minor aged 4 years with her grandmother and the OCS instructed her to escort them to Mutomo Level 4 hospital as she had been defiled. At the hospital the clinical officer took samples from the minor's genitalia and she realised that there was a tear in the vagina. The minor was given painkillers and when the doctor arrived, stitching was done as there were layers on the genitalia. The child need, seven (7) stitched on each side.

19. While still at the hospital, the child's grandmother had told her that the perpetrator had been arrested at Kyoani while trying to escape. Minutes later the accused was brought to the hospital by police officers and it was discovered that his penis had fresh blood stains and some sand on his penile shaft. He was in the company of the OCS, two officers, the mother and a villager. After the Victim had been attended to, she was given medication and discharged in fair condition. She recorded the witness statements and produced a birth notification indicating that the victim was born on 07.01.208.

20. While at the hospital, PW2 was quite traumatized mentally and had not mentioned who defiled her, but when the accused was brought to hospital for check-up, he was wearing the same black shirt and red shoes, which PW3 had mentioned the assailant was putting on. She also discovered that the appellant was a herdsman in that area. Upon Cross examination, PW7, confirmed that the accused was arrested at Kyoani by the public and other police officers and none of his clothes was taken from him.

21. The Appellant was placed on his defence and gave unsworn testimony. He stated that he was employed in Mutomo and on 21.5.2022 he had woken up in the morning and was assigned the work of digging terraces which he did until 5.00pm. For the work done, he was sent Kshs 500/= and decided to go to Kyoani to buy blood pressure medicine which he usually took, to manage his health condition. While buying medicine, people came, grabbed him and started to beat him accusing him of defiling the minor. The police came and he was put in the police vehicle and taken to hospital where he was examined. He denied knowing the child, but confirmed that he worked for their next-door neighbour. The said neighbour had refused to pay him is salary for eight (8) months and he believed he was framed for claiming his money.

22. The Trial court considered the evidence adduced and rendered itself on 5.09.2023. The Appellant was found guilty of defilement. After mitigation, he was sentenced to life imprisonment. Dissatisfied by the judgment and sentence, the Appellant filed this appeal seeking to have the conviction quashed and the sentence set aside or varied on the grounds that can be summarized as follows;

a. The learned Trial Magistrate erred in both law and fact when relying on evidence adduced by the prosecution witness yet the same was not proved to the standard of the law.

b. The learned Trial Magistrate erred in both law and fact when relying on medical examination and PRC forms which was not proved as the law requires.

c. The learned Trial Magistrate erred in both law and fact when he did not take into consideration that the Appellant had been framed.

d. The learned Trial Magistrate erred in both law and fact when he rejected the Appellant's sworn statement which showed his whereabouts during the incident.

e. The learned magistrate erred in law and fact in failing to consider that the victim was with her siblings who did not identify the assailant but talked of an unknown person.

C. The Appeal

23. I have considered the trial court record, the grounds of appeal and the submissions of both parties and find the following as the issues for determination;

a. Whether the ingredients of the offence of defilement were proven

b. Whether the defence evidence was considered

c. Whether the sentence should be set aside and or varied

24. This being the first appeal, this court is as a matter of law enjoined to analyze and re-evaluate a fresh all the evidence adduced before the lower court and to draw its own conclusion while bearing in mind that it neither saw nor heard any of the witnesses. See Okeno versus Republic (1072) EA 32 where the court of appeal set out the duties of the first appellant court as follows;

> " An appellant on first appeal is entitled to expect the evidence as a whole to be submitted to fresh and exhaustive examination (Pandya versus Republic (1957) EA 336) and the appellant court own decision on the evidence made. The 1st appellant court must itself weigh conflicting evidence and draw its own conclusion (Shantital M Ruwala versus Republic (1957) EA 570). It is not the function of a first appellant court merely to scrutinize the evidence to see if there was some evidence to support the lower court and collect finding and conclusion. It must make its own finding and draw its own conclusion. Only then can it be decided whether the magistrate findings should be supported. In doing so it should make allowance for the fact the trial court has had the advantages of hearing and seeing witnesses. See Peters versus Sunday Post (1958) EA 424."

25. The first issue for determination is whether the ingredients of the offence of defilement was proved. The appellant was charged with the offence of defilement contrary to Section 8 (1) as read together with section (2) of the *Sexual Offences Act* No3 of 2006 which provides that;

1. A person who commits an act which causes penetration with a child is guilty of an offence termed defilement.

2. A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life

26. The offence of defilement is rooted on three main ingredients being the age of the victim (must be a minor), penetration and the proper identification of the perpetrator. The first element is age. The

Court of Appeal in Edwin Nyambogo Onsongo vs. Republic (2016) eKLR stated as follows in respect of proving the age of a victim in cases of defilement:

> " ... the question of proof of age has finally been settled by recent decisions of this court to the effect that it can be proved by documents, evidence such as a birth certificate, baptism card or by oral evidence of the child if the child is sufficiently intelligent or the evidence of the parents or guardian or medical evidence, among other credible forms of proof. We think that what ought to be stressed is that whatever the nature of evidence preferred in proof of the victim's age, it has to be credible and reliable." (emphasis added)

27. PW1, the mother of the victim stated that PW2 was born on 7.01.2018. PW7 produced a birth notification document which also indicated that the minor was born on 7.01.2018. This offence is alleged to have taken place on 21.03.2022 which means that the victim was 4 years 2 months old at the time of the incident. The second element to prove is penetration which word is defined under Section 2 of the *Sexual Offences Act* as follows:

> " The partial or complete insertion of the genital organ of a person into the genital organs of another person."

28. The same section defines "genital organs" to include;

> " the whole or part of male or female genital organs and for purposes of this Act includes the anus."

29. Section 124 of the *Evidence Act*, Cap 80 provides as follows:

> " Notwithstanding the provisions of section 19 of the Oaths and Statutory Declaration Act, where the evidence of the victim admitted in accordance with that section on behalf of the Prosecution in the proceedings against any person for an offence, the accused shall not be liable to be convicted in proceedings against him unless it is corroborated by other evidence in support thereof implicating him.
>
> Provided that where in a criminal case involving a sexual offence, the only evidence is that of the alleged victim of the offense, the court shall receive the evidence of the alleged victim and proceed to convict the accused person, if for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth."

30. PWI returned home at about 3.00pm on the Material day and found her child had been defiled and was bleeding profusely from her genitalia. This fact was confirmed by PW4 and PW5 who rushed to help her, when she screamed in anguish at what she had discovered. PW4 applied her rudimentary fast Aid skills and tied her up with cloth to put pressure in order to stop/slow down the bleeding. PW1 was rushed to hospital and from the medical records produced into evidence by PW5 the same did confirm that PW2 had been grossly violated and suffered serious injuries, classified as grievous harm.

31. On the P3 form and PRC form, it was noted, that the minor had difficulty in walking and had bled profusely due to the injuries sustained. There was presence of blood on pelvic region, thighs and legs. Blood stains on valval region, labia minora and majora with 3rd degree vaginal tear. PW2 had to be taken to theatre to have her stitched up and later was referred to the Gynaecolgist specialist at Kitui to confirm that she will not suffer from fistula. She was also placed to undergo counselling to help her cope. This evidence undoubtedly proved that indeed PW2 was penetrated/ defiled through beastly act of an adult.

32. As regards evidence of identification of the assailant, the fundamental aim of eyewitness identification evidence is reliably to convict the guilty and to protect the innocent. Evidence from eyewitnesses plays an important role in all contested cases. However, the trial court should always note, that memory is a fragile and malleable instrument, which can produce unreliable yet convincing evidence. Because mistaken witnesses can be both honest and compelling, risking wrongful conviction which can result in injustices.

33. Our system of justice is deeply concerned that no person who is innocent of a crime should be convicted of it. In order to avoid that, a court must consider identification testimony with great care, especially when the only evidence identifying the accused as the perpetrator comes from one witness. However, the law is not so much concerned with the number of witnesses called as with the quality of the testimony given. A guilty verdict is permitted, only if the evidence is of sufficient quality to convince the court beyond a reasonable doubt that all the elements of the crime have been proven and that the identification of the accused is both truthful and accurate.

69. In Kariuki Njiru & 7 others v Republic the court held that evidence relating to identification must be scrutinized, and should only be accepted and acted upon if the court is satisfied that the identification is positive and free from the possibility of error. Visual identification in criminal cases can cause miscarriage of justice and must be carefully tested. In Wamugunda Vs Republic (1989)KLR 424 at page 424 the court had this to say.

> " where only evidence against a defendant is evidence of identification or recognition, a trial court is enjoined to examine such evidence carefully and to be satisfied that the circumstances of identification were favourable and free from possibility of error before it can safely Make it the basis of a conviction."

34. The Court of Appeal in the case of James Murigu Karumba vs. Republic [2016] eKLR, based on Suleiman Juma alias Tom – v- R (2003) eKLR; (2003) KLR 386 also stated that:

> " Lastly, the three identifying witnesses did admit that they knew the appellant prior to the incident. Consequently, this was a case of recognition as opposed to identification of a stranger. Therefore, there was no need for the identification parades and the identification evidence therein was of no probative value."

35. In this case there was recognition and identification of the Appellant. PW1, through to PW5 all personally knew the Appellant as a herdsman, employed by their neighbour "Mary". The Appellant in his defence also confirmed the fact that he worked for the victims neighbour, when he stated that; "I didn't know that child. I was working next to their home. This neighbour refused to pay me for 8 months." PW2, testified that the man who defiled her wore red shoes, like her mums and she could see him in court. She stated that; " I have seen him in court. He is there (points at the accused). I had seen him at Mary's home. I have not been coached by anyone. What I have stated is what happened."

36. PW3, also testified that the person who came to their home had wore a black shirt and red shoes. The appellant was arrested within an hour of the incident at Kyoani shopping centre and when PW1 was allowed into the building where he was being held, true to PW3 observation, the appellant had been arrested dressed the same way, complete with the red shoes.PW3 (the child's grandmother) was the caregiver who rushed the child to hospital. While with the child was undergoing treatment, the appellant was brought and PW2 told her that the appellant was the person who defiled her and he was a person she knew and would see him while coming from school.

37. The final smoking gun, which pinned the appellant was that he was also physically examined by PW6 and she found that his penile shaft and testicles had fresh blood stained with soil and sand. In cross examination PW6 confirmed that the blood on the appellant's penis was fresh and she was able to wipe it off. All these chain of evidence put together and critically examined through direct and circumstantial evidence as presented, leaves no gap in the chain of events whatsoever that it was the appellant who unfortunately defiled the minor and indeed he was properly identified as the perpetrator and rightfully arrested.

38. The Appellant did urge this court in his submissions to find that the prosecution had not proved its case beyond reasonable doubt and he had been wrongly convicted based on conjecture and speculation. The evidence as analysed above disapproves the appellant's contention, to the contrary he was properly convicted based on solid and cogent evidence. Secondly the Appellant submitted that his defence was not considered. Upon perusal of the Trial court judgement, the trial magistrate did consider the appellants defence and rightly found that he never cross examined any witness on issues raised in his defence and thus his defence was raised as an afterthought and had no merit.

39. Lastly, on the issue of the sentence, section 8 (2) of the *Sexual Offences Act* No 3 of 2006 provides as follows;

> A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life

40. The Supreme Court of South Africa in Mokela Vs. The State (135/11) [2011] ZASCA 166, the held that:

> " It is well- established that sentencing remains pre-eminently within the discretion of the sentencing court. This salutary principle implies that the appeal court does not enjoy carte blanche to interfere with sentences which have been properly imposed by a sentencing court. In my view, this includes the terms and conditions imposed by a sentencing court on how or when the sentence is to be served."

41. In MMI v Republic [2022] eKLR, the court stated thus;

> " ...The principles guiding interference with sentencing by the appellate court were properly, in my view, set out in S vs. Malgas 2001 (1) SACR 469 (SCA) at paragraph 12 where it was held that:
>
> 'A court exercising appellate jurisdiction cannot, in the absence of material misdirection by the trial court, approach the question of sentence as it were the trial court and then substitute the sentence arrived at by it simply because it prefers it. To do so would be to usurp the sentencing discretion of the trial court .....
>
> However, even in the absence of material misdirection, an appellate court may yet be justified in interfering with the sentence imposed by the trial court. It may do so when the disparity between the sentence of the trial court and the sentence which the appellate court would have imposed had been the trial court is so marked that it can properly be described as ''shocking'',''startling'' or ''disturbingly inappropriate."

42. The sentencing Guidelines requires the court to take into account aggravating and mitigating factors before melting out an appropriate sentence. The victim herein was a child of a very tender age (4 years old). The appellant selfishly acted in a beastly manner by defiling and in the process gravely injuring

her, necessitating immediate surgical intervention to save her life. This incident left both the victim, her family and neighbours deeply traumatized both physically, emotionally and undoubtedly left a permanent scar on their lives. These are aggravating factors which called for a deterrent sentence. The sentence melted out by the Trial court was the legal sentence prescribed in law and though the trial court had the discretion to prescribe a lesser sentence, the circumstances herein, when considered mitigated against the same.

43. The Appellant has therefore not shown that the sentence passed was manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor or took into account some wrong material, or acted on a wrong principle to enable this court to intervene.

44. Be that as it may, there is new jurisprudence relating to life sentence. In *Manyeso v Republic (Criminal Appeal12 of 2021*) [2023] KECA 827 (KLR) (7 July 2023) (Judgment)Neutral Citation: [2023]KECA827 (KLR) Court of Appeal at Malindi P Nyamweya, JW Lessit and GV Odunga, JJ which was a second appeal by an accused who was convicted of the charge of defiling a girl aged 4½ years. The appellant was sentenced to life imprisonment at the trial court. The appellant's first appeal at the High Court was dismissed. The appellant further aggrieved filed the 2nd Appeal on grounds that he committed the offence when he was only 18 years old and was a first offender. The Court of Appeal held that the constitutionality of the mandatory and indeterminate sentence of life imprisonment was discriminatory, inhumane and a violation of the right to human dignity. The Court of Appeal partly allowed the appeal, the life sentence was substituted with a sentence of 40 years' imprisonment. The 40 years was to serve as a deterrent. In the current Appeal the facts mirror. The minor was younger and the Appellant inflicted grievous harm on her.

D. Disposition

45. Having considered all the grounds of appeal I do find that this appeal has no merit. The appeal as against conviction is Dismissed.

46. The Appeal on sentence partially succeed. The life imprisonment imposed on the Appellant in Mutomo Principal Magistrate criminal (S.0) case Number E004 of 2022 is hereby set aside and substitute with a sentence of fifty (50) years imprisonment to run from 21st May 2022, when the Appellant was arrested in line with provisions of Section 333(2) of the criminal procedure code.

47. Right of Appeal 14 days.

48. Judgment Accordingly

JUDGMENT WRITTEN, DATED AND SIGNED AT MACHAKOS THIS 17TH DAY OF JULY, 2024.

FRANCIS RAYOLA OLEL

JUDGE

Delivered on the virtual platform, Teams this 17th day of July, 2024.

In the Presence of;

Appellant present from Kamiti Maximum prison

Mangare/Otulo for ODPP

Susan/Sam Court Assistant