



**Busolo v Republic (Criminal Revision 220 of 2024)
[2024] KEHC 10823 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10823 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 220 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

ROBERT BUSOLO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This file was brought before me for the decongestion exercise pursuant to the Chief Justice's memo dated 7/12/2022, which provides that inmates who are serving three (3) years imprisonment or less, or those serving long sentences but have a balance of three (3) years or less may be considered for non-custodial sentences.
2. I have gone through the file and noted that applicant was convicted by the trial court for the offence of committing an indecent act with a child contrary to section 11 (1) of the *Sexual Offences Act* No 3 of 2006. He was sentenced to serve 5 years imprisonment.
3. According to the Prison Conduct Report dated 15th August 2024, the applicant has served 2 years and 8 months of his sentence, with 1 year and 4 months remaining, after accounting for a remission period of 1 year and 8 months.
4. A probation report was also filed with respect to the applicant. According to the said report, the applicant has been receptive to rehabilitation while in prison. However, the report suggests that since the Applicant has not served a considerable time of his sentence since his conviction, he should be detained further.
5. I have noted that the Probation Report only considered the duration of 8 months that the Applicant served after conviction. However, I have perused the trial record and noted that the trial court ordered that the sentence of 5 years should be computed from the date of Plea, 31/08/2022. I shall therefore



rely of the above-mentioned Prison Conduct Report, which is consistent with the trial court's ruling on sentence.

6. Nevertheless, the offense committed by the Applicant is of a grave nature, involving the indecent act of a child. Such offenses have long-lasting psychological and emotional impacts on the victims, and society expects firm punishment as a deterrent for such conduct.
7. While the Probation Report highlights the Applicant's receptiveness to rehabilitation, this alone cannot outweigh the gravity of the offense. Given the seriousness of crimes involving children, it is imperative that the sentence imposed reflects the severity of the violation and serves as both punishment and a deterrent to others who may contemplate similar offenses.
8. Therefore, despite the favourable aspects of the Applicant's conduct in prison, it is in the interest of justice that the Applicant completes the remainder of his custodial sentence in order to fully account for the harm caused by his actions.
9. Consequently, I decline to release the Applicant under the decongestion exercise.
10. The file shall be returned to the lower court for safe custody.

Orders accordingly.

RULING DELIVERED THIS 17TH DAY OF SEPTEMBER 2024.

D. KAVEDZA

JUDGE

