



**Colmenares v Republic (Criminal Revision 218 of 2024)
[2024] KEHC 10872 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10872 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 218 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

MARIA ELENA COLMENARES 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 for the offence of Trafficking in narcotic drugs contrary to section 4(a) of the *Narcotic Drugs and Psychotropic Substances Control Act* No. 4 of 1994. She was sentenced pay a fine of Kshs. 20,000,000/= in default to serve one year imprisonment. Additionally, she was sentenced to serve 10 years imprisonment.
3. According to the Recommendation Report from prison dated 7th August 2024, the Applicant has 1 year and 6 months left to complete her sentence. The Report also indicated that the Applicant has been of good behaviour since her admission to prison.
4. The Probation Report was also filed in court with respect to the Applicant. According to the said Report, the Applicant has been receptive of Rehabilitation programs while in prison. Additionally, the report indicates that the applicant is remorseful and prays that she be granted an early release. As the Applicant is an American national, the American Embassy has expressed willingness to facilitate her repatriation to her country of origin.



5. In view of the foregoing, it is my finding that the applicant is eligible for early release as the both the Probation and Prison Reports found in her favour. The applicant has been in custody for six (6) years and seven (7) months. This, in my view, is sufficient sentence served by the applicant.
 6. Consequently, I proceed to order as follows:
 - i. The applicant shall forthwith be set at liberty unless otherwise lawfully held.
 - ii. As the applicant is an American national, she shall be handed over to the American Embassy for repatriation to her country of origin.
 - iii. A report to be filed in court thereof.
- It is so ordered.

RULING DELIVERED THIS 17TH DAY OF SEPTEMBER 2024.

D. KAVEDZA

JUDGE

