



**Mutua v Republic (Criminal Revision 222 of 2024)
[2024] KEHC 10908 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10908 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 222 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

JACKSON MUTINDA MUTUA 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 kidnapping contrary to section 257 as read with 256 of the *Penal Code*. He was sentenced to serve five years imprisonment.
3. According to the Prison Conduct Report dated 15th August 2024, the applicant has served one year and eight months of his sentence, with one year and nine months remaining, after accounting for a remission period of one year and eight 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 and has expressed willingness to provide voluntary service to the community for the remainder of the sentence. The applicant’s family is also willing to facilitate his successful rehabilitation and reintegration upon release.
5. Despite the favourable findings in the Probation Report, the seriousness of the offense committed cannot be overlooked. Kidnapping is a grave violation of personal liberty and can cause significant trauma and harm to the victim. It is a crime that society takes very seriously due to its potential to undermine public safety and trust.



6. As such, it is necessary for the sentence to reflect the severity of the crime, not only to punish the offender but also to serve as a deterrent to others.
7. In light of this, I am not persuaded that early release is appropriate in this case, and the Applicant shall continue to serve the remainder of his sentence in custody.
8. 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

