



**Ochieng v Republic (Criminal Revision E027 of 2024)
[2024] KEHC 10830 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10830 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E027 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

PATRICK JUMA OCHIENG 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 Robbery with Violence contrary to section 295 as read with 296(2) of the Penal Code. He was sentenced to serve 5 years imprisonment.
3. A Recommendation Letter from Prison dated 09/08/2024 indicates that the Applicant has been of good conduct ever since his admission to prison.
4. A Probation Report was also filed with respect to the Applicant, indicating that he has served 2 years 9 months and has a balance of 8 months to serve before release.
5. According to the said report, the applicant has been receptive to rehabilitation programs and is ready to serve a non-custodial sentence. He is remorseful and regrets his actions. His family members, particularly his uncle, is also ready to facilitate his progressive reintegration upon release.
6. In this case, while the applicant may be considered for a non-custodial sentence under the Chief Justice’s memo, the nature of the offense is a particularly serious one. Robbery with violence is considered one of the most grievous offenses due to its potential for harm to victims and society. Even



though the applicant has demonstrated good conduct in prison and has shown remorse, the court must balance these factors with the severity of the crime.

7. Therefore, despite the positive reports, I decline to release the Applicant under the decongestion exercise.

Orders accordingly.

RULING DELIVERED THIS 17TH DAY OF SEPTEMBER 2024.

D. KAVEDZA

JUDGE

