



**Okonkwo v Republic (Criminal Revision 243 of 2024)
[2024] KEHC 10934 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10934 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 243 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

FRANCIS OBIDIMMA OKONKWO 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 three counts of 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. In count 1, he was sentenced to pay a fine of Kshs 8,020,350/=, in default to serve one year imprisonment, and in addition to serve twelve years imprisonment. In count 2, he was fined Kshs 1,000,000/= in default to serve one year imprisonment, and in addition to serve ten years imprisonment. In count 3, he was fined Kshs 1,000,000/= in default to serve one year imprisonment and in addition to serve ten years imprisonment. The sentences were to run consecutively.
3. A Probation Report was filed with respect to the Applicant, indicating that the Applicant has served only three years of his sentence. According to the said report, despite the applicant pleading for a non-custodial sentence, he is a foreign national who lacks a fixed abode in the county, making him a flight risk. The report concluded that the Applicant is not suitable for a non-custodial sentence.



4. It is also noteworthy that the Applicant is yet to serve a majority of his sentence; neither does he fit under the category for those eligible for non-custodial sentences pursuant to the above-mentioned Chief Justice's memo dated 7/12/2022.
5. As the trial court ordered that the sentences meted against the Applicant are to run consecutively, the Applicant still has more twenty years left to complete his sentence.
6. I therefore find that the Applicant is not eligible for a non-custodial sentence and decline to release him under the decongestion exercise.
7. The file shall be returned back to the Lower Court for safe custody.
Orders accordingly.

RULING DELIVERED THIS 17TH DAY OF SEPTEMBER 2024.

D. KAVEDZA

JUDGE

