



**Onyango v Republic (Criminal Revision E130 of 2024)  
[2024] KEHC 10611 (KLR) (10 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10611 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E130 OF 2024  
RE ABURILI, J  
SEPTEMBER 10, 2024**

**BETWEEN**

**BENTA AWINO ONYANGO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Kisumu  
Chief Magistrate’s Court Criminal Case No. E223 of 2024)*

**RULING**

1. On 3<sup>rd</sup> June 2024, the convict Benta Awino was sentenced to serve six (6) months imprisonment as a default sentence in lieu of a fine of Kshs.50,000 for the offence of being found in possession of 100 litres of alcoholic drinks namely changaa.
2. In mitigation, she pleaded for forgiveness, was a widow and had rented a house. That she had a young child.
3. The Children’s Officer’s report dated 30<sup>th</sup> May 2024 filed in Kisumu CM Criminal Case No. E223 of 2024 shows that the convict has an 8 year old child, J. O and other minor children. She admitted the offence. The illicit brew is indeed destructive. But the minor children will suffer more if their mother remains in jail longer. She has been in jail for 3 months out of the 6 months’ imprisonment. The minor children were left in the custody of their aged grandmother. The convict is a first offender who pleaded guilty to the charge.
4. I exercise discretion in the spirit of prison decongestion and order that the remainder of the 3 months’ imprisonment is suspended for six (6) months not to commit any offence and the convict Benta Awino Onyango is ordered released from prison forthwith unless otherwise lawfully held.
5. Signal to issue.



6. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**R. E. ABURILI**

**JUDGE**

