



**Ouma v Republic (Criminal Revision E138 of 2022)  
[2023] KEHC 2291 (KLR) (23 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2291 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E138 OF 2022  
RE ABURILI, J  
MARCH 23, 2023**

**BETWEEN**

**BENARD OUMA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Criminal Case No E0295 of 2022 in the Senior Principal Magistrate's Court at Nyando delivered on 7th November 2022)*

**RULING**

1. The matter was before this Court on December 22, 2022 for sentence revision. However, as sentence review report was not available, the Hon Judge directed that the matter be revisited once the sentence Review Report is availed.
2. There is no evidence that a Sentence Review Report was filed.
3. I have however perused a Pre-Sentence Report filed by the Probation Officer, Nyando, Mr Nicholas Mirimo and dated November 7, 2022.
4. The convict in Nyando SPM's Court Criminal Case No E295 of 2022 Benard Ouma Ondu was convicted of the offence of assault causing actual bodily harm and sentenced to serve two (2) years imprisonment.
5. According to the Pre-Sentence Report, the convict is a recidivist criminal in respect of many other offences namely, arson, assault, manufacturing changaa but that he was always released upon arrest. That he is a violent person, abusive to his immediate family members and extended family. The complainant was his grandmother and his caregiver and that he did not find it necessary to apologise to her for assaulting her.



6. It was recommended that if released, he will continue to harm his family hence a custodial sentence was preferred.
7. I have considered the recommendations by the Probation Officer and the alleged character of the convict. He has been in prison now close to five (5) months and he sought for sentence review on December 20, 2022 which was only one month after his conviction and sentence.
8. I am not persuaded that the convict deserves non-custodial sentence. There is need for him to be rehabilitated in prison and to reform before he can be released to his family which he has disrupted with violence due to drug abuse, according to the Probation Report dated November 7, 2022.
9. I decline to revise the sentence of two (2) years imprisonment imposed on the convict Benard Ouma Ondu and dismiss the request for Sentence Review.
10. This file is closed.
11. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 23RD DAY OF MARCH, 2023**

**R. E. ABURILI**

**JUDGE**

