



REPUBLIC OF KENYA



**KENYA LAW**  
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**Muthaura v Republic (Criminal Revision E010 of 2023)  
[2023] KEHC 17466 (KLR) (16 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17466 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL REVISION E010 OF 2023  
EM MURIITHI, J  
MAY 16, 2023**

**BETWEEN**

**JEREVASIO MUTHAURA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was convicted and sentenced to serve imprisonment for six (6) years on 4/11/2019 for the offence of causing grievous harm contrary to section 234 of the [Penal Code](#).
2. His previous quest for review of the sentence was declined by the court on 17/6/2021. He is once again before this court under the decongestion exercise seeking an early release from prison on the grounds that he is remorseful and has since undergone counselling and training. He tells the court that he is due to be released on 4/11/2023
3. The probation officer has indicated in her sentence review report that, the Applicant “is suitable for sentence review and probation order is recommended for him.” It is expressed in that report that, “the victim in this matter has no issue if he is granted an early release.”
4. Despite the court having directed the Respondent to file submissions, the same were not filed.
5. As per the P3 form, the Applicant indeed inflicted very severe injuries to the victim being deep cut to the left cheek, traumatic amputation of the left forearm, traumatic deep cuts to the left leg and deep cut to the left buttock of his aunt. The sentence of imprisonment for 6 years meted out to the Applicant was lenient considering the penalty prescribed under section 234 of the [Penal Code](#) is imprisonment for life.
6. Although the court is required under section 176 of the [CPC](#) to promote reconciliation and settlement of cases of common assault and offences of personal nature, the offence should not be aggravated as



in this case. While the probation officer recommends the early release of the Applicant from prison, that recommendation does not bind this court. On the facts of this case, the court is satisfied that the Applicant already benefitted from the trial court's leniency when he only got six years for an offence which attracts a maximum sentence of life imprisonment.

7. The circumstances of this case require a deterrent sentence and, on the principle of *Wanjema V R* (1973) EA 493, the court does not find any reason for interfering with the sentencing decision of the trial court.

#### **Orders**

8. Accordingly, for the reasons set out above, the Revision is declined.

Order accordingly.

**DATED AND DELIVERED THIS 16<sup>TH</sup> DAY OF MAY, 2023.**

**EDWARD M. MURIITHI**

**JUDGE**

#### **APPEARANCES:**

Applicant in person.

Mr. Masila, Advocate for the Respondent.

