



**Mokaya & another v Republic (Criminal Revision E091 of 2023)
[2023] KEHC 20310 (KLR) (18 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20310 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E091 OF 2023
WA OKWANY, J
JULY 18, 2023**

BETWEEN

CYPRIAN MOKAYA 1ST APPLICANT

WICKLIFF MOKAYA MOREU 2ND APPLICANT

AND

REPUBLIC RESPONDENT

(From the original Conviction and Sentence in the Senior Principal Magistrates' Court at Keroka, Criminal Case No. MCCR E074 of 2023 by Hon. B.M Kimtai, Senior Principal Magistrate on 9th March 2023.)

RULING

1. The Applicants were jointly charged with the offence of being in possession of narcotic drugs (bhang) contrary to section 3 (2) of the *Narcotic and Psychotropic Substances Control Act* No 4 of 1994. They were each convicted on their own plea of guilty and each sentenced to serve 1 year imprisonment by the trial court. The Applicants have each already served 4 months in custody.
2. There are 2 sentence review reports on Record. The first Sentence Review Report filed on July 5, 2023 by Probation Officer Daisy Lang'at in respect of the 1st Applicant recommends a non-custodial sentence.
3. The second Sentence Review Report filed on July 5, 2023 by Probation Officer Nicholas Kibet in respect of the 2nd Applicant does not recommend a non-custodial sentence because the community knows him as a frequent user of bhang and is tired of his stealing habits.
4. I hereby direct that the 1st Applicant serves a Community Service Order at Esise Chief's Office under the supervision of Mr Alfred Onchonga for a period of six (6) months.



5. For the 2nd Applicant I find that he is unsuitable for a non-custodial sentence and hereby direct that he continues to serve the remaining part of his sentence being 6 months in custody.
- 6 Orders accordingly.

DATED AND DELIVERED AT NYAMIRA ON THIS 18TH DAY OF JULY 2023.

W A OKWANY

JUDGE

