



**Maloba v ODPP (Criminal Revision E238 of 2023)
[2023] KEHC 20064 (KLR) (7 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20064 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL REVISION E238 OF 2023**

PJO OTIENO, J

JULY 7, 2023

BETWEEN

MARY MALOBA APPLICANT

AND

ODPP RESPONDENT

RULING

1. By the letter of May 23, 2023, the Applicant seeks that her prison sentence six months in default payment of Kshs 50,000/= be reviewed on the basis that she is unable to pay the fine. She then adds that she is an old Kenyan who suffered an injury to her hip joint out of a road traffic accident which has left her with a disability in which she has to wear a waste/body belt which is unsuitable in the prison conditions. In addition, she adds that one of her daughters is mentally challenged but has three children sired by unknown men which children are her obligation.
2. While the Court sees no basis to fault the trial court on the statutory grounds for revision, the Court appreciates imprisonment is not the only available sentence for every offence including those offences which are committed by Kenyan purely on account of their social and economic conditions.
3. The Court further appreciates that there is need to remove petty offenders from prison and into the civil duty of nation building as opposed to burdening the budgetary difficulties experienced by the Department of Correctional Services by populating prisons with offenders who can be punished otherwise.
4. All considered, I do revise the sentence to the extent that the Applicant may serve the remainder of the term which is hereby reduced to forty five (45) days by performing unpaid work at the office of the Chief, Isongo Location or such other work site as the Chief shall direct.
5. The Chief shall supervise the Applicant for the duration of the Community Service Order.



DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 7TH DAY OF JULY 2023.

PATRICK J. O. OTIENO

JUDGE

