



**DC v Republic (Criminal Revision E053 of 2023)
[2023] KEHC 23800 (KLR) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23800 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E053 OF 2023
JK SERGON, J
OCTOBER 19, 2023**

BETWEEN

DC APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. DC hereinafter referred to as the Applicant was convicted of the offence of child neglect contrary to section 127 (1) (a) of the [Children’s Act](#) No.8 of 2001
2. On December 6, 2022, Hon. L.A. Mwera, the learned resident magistrate sentenced the applicant to serve three (3) years imprisonment.
3. The proceedings relating to the aforesaid case, that is Kericho CMCR Case No. E021 of 2022 Republic-vs- DC were placed before this court pursuant to the provisions of section 362 and 364 of the [Criminal Procedure Code](#).
4. The Probation Officer filed a sentence review report on July 24, 2023. In the said report it was noted that the applicant was desirous of completing her sentence while in prison as she does not have anyone who can offer her medicare and financial support for the reason that she is HIV positive and is on ARV medication. The prison authorities were of the view that the applicant and her child are on treatment and that it was beneficial for them to complete the same. The probation officer noted that the applicant does not have close family ties and no family member (s) who can offer her social/psychological support if released, she therefore recommended that the applicant completes the remaining term of her sentence in custody to ensure that she and her child continue with medicare.
5. I have already stated the sentence pronounced by the Learned Resident Magistrate. The applicant has so far served seven (7) months and is remaining with two (2) years and five (5) months to complete her sentence.



6. Having considered the recommendation of the probation officer, the circumstances of this case and taking into account the best of the child as espoused in article 53 of the [Constitution of Kenya](#). I hereby order that the Applicant be set free from prison and ordered to serve the remainder of her sentence of two (2) years five (5) months on Probation under the supervision of the County Probation Officer, Kericho.
7. The applicant Namely:- DC to be escorted home by Mr. Charles Kosgei, (0720xxxxxx), Ag. Chief, Waldai Location and by Mr. Charles Kirui, Assistant Chief, Koitalel Sub-Location (0729-xxxxxx). The applicant to seek for psycho-Social support from Sosiot Sub-County Hospital.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF OCTOBER, 2023.

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J.K. SERGON

JUDGE

