



**Kemunto alias Mongina v Republic (Criminal Revision E031 of 2023)
[2023] KEHC 23816 (KLR) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23816 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E031 OF 2023
JK SERGON, J
OCTOBER 19, 2023**

BETWEEN

EVERLINE KEMUNTO ALIAS MONGINA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Everline Kemunto alias Mongina, hereinafter referred to as the applicant was convicted of the offence of causing grievous harm contrary to section 234 of the *Penal Code* cap 63 Laws of Kenya.
2. On June 2, 2022, Hon E.w Karani, the then learned Resident Magistrate sentenced the applicant to serve four (4) years imprisonment.
3. The proceedings relating to the aforesaid case, that is Kericho CMC Case No E1075 of 2022 Republic v Everline Kemunto alias Mongina 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 October 9, 2023. In the said report it was noted that the applicant was remorseful and promised not to reoffend. The probation officer noted that the circumstances leading to the instant offence arose from a domestic quarrel between the offender and the complainant who was her sister-in-law and further that the offender confronted her while under the influence of alcohol thereby committing the instant offence. The family members were opposed to her release on a non-custodial sentence, they prefer that she completes her sentence while in custody.
5. The prison authorities described the applicant as a reformed person who had learnt various skills while incarcerated.
6. The complainant was not willing to forgive the applicant, she reportedly sustained a permanent mark on her body and was therefore opposed to her release on a non-custodial sentence.



7. The probation officer in noting the above sentiments and the fact that the applicant was not welcome at her ancestral home as well as her matrimonial home recommended that the applicant was not suitable to serve a non-custodial sentence and should therefore complete her sentence in custody.
8. The report from the prison authorities is to the effect that the applicant has acquired various skills while in prison which skills which come in handy when she is out of prison. I am satisfied that this is a proper case to give the applicant a chance to serve a non-custodial sentence instead of being in prison.
9. The applicant has so far served in prison one (1) year four (4) months. The remainder of her sentence is two (2) years eight (8) months. The applicant namely:- Everline Kemunto alias Mongina is hereby ordered set free from prison and ordered to serve the remainder of her sentence of two (2) years eight (8) months on probation under the supervision of the Kericho County Probation Officer.

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

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J.K. SERGON

JUDGE

