



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kimutai v Republic (Criminal Revision E107 of 2023)  
[2023] KEHC 23798 (KLR) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23798 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL REVISION E107 OF 2023  
JK SERGON, J  
OCTOBER 19, 2023**

**BETWEEN**

**DOMINIC KIMUTAI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Dominic Kimutai, hereinafter referred to as the Applicant was convicted of the offence of threatening to kill contrary to section 223 (1) of the [Penal Code](#) CAP 63 Laws of Kenya.
2. On 20th March, 2023, Hon. A, Ajwang, 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. E529 of 2023 Republic-vs-Dominic Kimutai 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 9th October, 2023. In the said report it was noted that the Applicant was seeking for this court's leniency and stated that he would be a law abiding citizen and follow all the non-custodial sanctions. The probation officer noted that the family members interviewed reported that the applicant had undesirable character traits and was a nuisance in the community, they were therefore opposed to his release on a non-custodial sentence, they prefer that he completes his sentence while in custody. These sentiments were echoed by the local administration.
5. The prison authorities described the applicant as a reformed person and while incarcerated he was engaged in planting and tending to vegetables.



6. The probation officer in noting the sentiments gathered from the family members and the local administrators was of the opinion that the applicant was unsuitable for review of his custodial sentence and therefore left the matter for the court to exercise its discretion.
7. Having considered the fact that the sentence review report is unfavourable, I hereby decline to interfere with the sentence and order that the Applicant Namely:- Dominic Kimutai continues to serve the remaining part of his sentence while in custody.

**DATED, SIGNED AND DELIVERED THIS 19<sup>TH</sup> DAY OF OCTOBER, 2023.**

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**J.K. SERGON**

**JUDGE**

