

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 64 OF 2020

GRACE AKOTH ALIAS NYAMWER.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence in Criminal Case No. 134 of 2017 of the Principal Magistrate's Court, Siaya dated 29.6.2019 before Hon. J. Ong'ondo, Principal Magistrate)

RULING

1. I have considered the application for sentence revision, the grounds and supporting affidavit. I note that the applicant/convict **GRACE AKOTH ALIAS NYAMWER** was sentenced to serve 5 years imprisonment for grievous harm. The victim of the offence sustained very severe injuries, according to the P3 form, occasioned by a panga cut. There is no reason why a human being would viciously attack another human being who was a not a threat to her.
2. The applicant has only lost the liberty which is temporary whereas the victim has suffered very severe injuries. She cannot use her hand effectively to fend for herself. The trial magistrate meted out a very lenient sentence as the offence of grievous harm attracts up to life imprisonment.
3. The sentence meted was imposed after hearing mitigations and a Probation officer's report which enabled the trial court to impose lenient sentence.
4. The applicant has already served 2 years of the 5 years imprisonment. The report from the Officer In-charge Kisumu Women's Prison states that the applicant is disciplined and very remorseful. That she has reformed and is ready to live in the community.
5. I am aware that the covid-19 situation has had a serious impact on the community at large and that the applicant/convict is a young lady with young children who need their mother at this trying moment.
6. I am also aware that the victim of the offence sustained very serious injuries.
7. The applicant did not appeal against conviction and sentence meaning she owns up to committing the offence and takes responsibility for her unlawful actions which have kept her behind bars.
8. Nonetheless, as the convict has served her sentence substantially and from the report by Officer In charge Kisumu Women Prison, she would be entitled to remission of sentence after serving $\frac{2}{3}$ (two thirds) of her prison term.
9. I exercise discretion and revise the sentence imposed on the applicant and order that **Grace Akoth Ochieng** be leased from prison and shall for the next one year be reporting to the OCS of the nearest police station every Friday without fail and only with leave of the OCS. The said OCS to keep a record of her reporting to this court after every three months until competition. The applicant shall also not commit any offence of any nature within the said period of one year from date of release and breach of these conditions of release, she shall be rearrested and resend to prison to complete her prison term.
10. This conditional release will enable the applicant/convict to reach out to the victim with an apology and seek to make peace with her.
11. Orders accordingly.

Dated, signed and Delivered at Siaya, this 10th Day of July 2020

R.E. ABURILI

JUDGE