



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL REVISION NO. 2 OF 2019

VNM.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

[Revision from the sentence in Criminal Case 1255 of 2017 at Kigumo by A. Mwangi, Senior Resident Magistrate dated 13th August 2018]

RULING

1. The applicant has moved the court for *revision* of sentence.
2. Section 362 as read with section 364 of the **Criminal Procedure Code** vests the High Court with wide power to alter or reverse a sentence.
3. In her deposition filed on 22nd January 2019, the applicant avers that she is a single mother of four children aged 8, 7, 4 and six months respectively. She and the four year old son are HIV positive.
4. She claims to have reformed in prison. She pleaded with the court to consider the welfare of her children; and, to review her sentence to a non-custodial punishment.
5. The applicant was convicted for *robbery with violence*. The learned trial magistrate, relying on **William Okungu Kittiny v Republic**, Court of Appeal at Kisumu, Criminal Appeal 56 of 2013 (2018) eKLR, sentenced the applicant to *seven years* imprisonment. It was in my view a very lenient sentence.
6. I called for a *post-sentence* report under the **Community Service Orders Act**. The report was filed on 17th June 2019. It confirms that the applicant has undergone counseling and guidance at Thika Women's Prison. She has also learnt useful skills including sewing.
7. However, the interview with the local chief described the applicant as "*a member of an outlawed group*" that terrorized the public. The applicant has barely served a year in prison.
8. I empathize with the applicant, her medical condition and the pitiable circumstances of her children. But considering the nature of the offence and the lenient sentence, I am afraid there are no grounds for revision. In particular, justice would *not* be served by a *community service order* or a *non-custodial* sentence.
9. The revision is accordingly *refused*.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 23rd day of July 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

The applicant.

Mr. Mutinda for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.