



**Kipruto v Republic (Miscellaneous Criminal Revision E108 of 2024)
[2025] KEHC 13347 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13347 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
MISCELLANEOUS CRIMINAL REVISION E108 OF 2024
RB NGETICH, J
SEPTEMBER 18, 2025**

BETWEEN

ANDREW KIPRUTO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* No. 3 of 2006. The particulars were that on 31st December 2012, at [Particulars Withheld] Village in Baringo North District within Baringo County, he intentionally and unlawfully caused his penis to penetrate the vagina of Jerop Toroitich, a child aged 14 years.
2. He also faced an alternative charge of committing an indecent act with a child contrary to Section 11 of the same Act. The Applicant pleaded not guilty and the matter proceeded to full hearing where the prosecution called seven (7) witnesses. By a judgment delivered on 22nd February 2013, he was found guilty, convicted, and sentenced to serve 20 years' imprisonment.

Application for Review of Sentence

3. The Applicant has now moved this Court by way of an application brought under Articles 22(1), 27, 28, 29, 48, 50(2)(q), and 165(3)(a) & (b) of the *Constitution*, as well as Sections 216 and 362–364 of the Criminal Procedure Code.
4. He seeks a declaration that he is reformed, rehabilitated, and ready for reintegration into society. He prays that the sentence be revised to a lesser term or that he be placed on probation.
5. The Applicant states that he previously appealed to the High Court in Criminal Appeal No. 23 of 2013, but the appeal was dismissed in its entirety. He urges the Court to consider that he is remorseful, repentant, a first offender, and God-fearing.



6. When the application came up for hearing on 29th April 2025, the Applicant reiterated that his prayer was for substitution of the remainder of his sentence with a probationary term.

Social Inquiry Report

7. The Applicant, now aged 38 years, completed his KCPE with 250 marks out of 500. He dropped out of school due to peer pressure and later undertook a driving course at Heiptai Driving School. He engaged in boda boda operations and casual jobs until his arrest.
8. He is married with one child. His wife left after his incarceration and has since remarried. The child lives with the Applicant's mother at Riwo in Kabarnet and is currently in Grade 8 at [Particulars Withheld] Secondary School, her school fees being paid by the Applicant's brother.
9. The Applicant hails from a polygamous family. His father is a civil servant based in Kabarnet, while his mother is a retired civil servant living at Riwo. His siblings are well educated and economically stable, with one working as a medical doctor at Moi Teaching and Referral Hospital. None has a criminal record.
10. Prison records indicate that the Applicant is of good health. While in custody for the past 11 years, he has not completed any formal training courses, though he intermittently engaged in Bible study, carpentry, and agricultural training. He currently undertakes general duties at the prison.
11. The Applicant expressed willingness to reconcile with the community and the victim's family, stating that his incarceration has taught him valuable lessons.
12. Interviews with his family revealed readiness to receive him back. His father undertook to provide him with accommodation at Kabartonjo and assist him in establishing an income-generating venture.
13. The victim, now an adult and married, could not be traced, and her sentiments were therefore not captured.
14. Community members, including the area chief, considered the 11 years already served as sufficient punishment and expressed support for his reintegration.
15. The probation officer, noting the family's and community's support, recommended that the Applicant serve the balance of his sentence under probation supervision.

Analysis and Determination

16. The application invokes this Court's revisionary jurisdiction under Sections 362 and 364 of the Criminal Procedure Code, which empower the Court to review sentences where they are illegal, improper, or founded on error.
17. The Applicant has urged the Court to consider his remorse, rehabilitation, and family circumstances, and to substitute the remainder of his custodial term with a non-custodial sentence.
18. I have considered the Applicant's mitigation, the State's position, and the favourable social inquiry report.
19. The Judiciary Sentencing Policy Guidelines (2023) set out the objectives of sentencing as: -
 - a. Retribution: to punish the offender justly.
 - b. Deterrence: to discourage both the offender and others from future offending.
 - c. Rehabilitation: to reform the offender.



- d. Restorative Justice: to address victims' and community needs.
 - e. Community Protection: to safeguard society by incapacitating offenders where necessary.
 - f. Denunciation: to express society's condemnation of the offence.
20. In this case, the Applicant has served more than half of his 20-year sentence. His family and community are supportive of his reintegration. The probation officer's report is favourable, and there is no evidence of hostility or risk to the victim, who is now an adult and settled.
21. Considering the circumstances, I am persuaded that a non-custodial sentence will serve the objectives of rehabilitation, restorative justice, and community reintegration, while still upholding the punitive and deterrent aspects of sentencing.
22. Final Orders: -
- A. The application for revision succeeds. The Applicant's custodial sentence is hereby reviewed.
 - b. The Applicant shall serve the remainder of his sentence under probation supervision, subject to strict compliance with the terms to be set by the Probation Department.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 18TH DAY OF SEPTEMBER, 2025.

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RACHEL NGETICH
JUDGE

In the presence of:

M/s. Mburu for State.

Applicant present.

CA, Elvis.

