



**Lokwani v Republic (Criminal Revision E019 of 2025)
[2025] KEHC 13622 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13622 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL REVISION E019 OF 2025
RB NGETICH, J
OCTOBER 2, 2025**

BETWEEN

ALEX LOKWANI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Alex Lokwani was charged with the offence of attempted murder contrary to section 220(a) of the Penal Code. The particulars were that on 6th August, 2023, at Shauri village in Koibatek sub-county, within Baringo County, he attempted unlawfully to cause the death of one Elijah Gichohi by cutting him on the neck with a panga.
2. The Applicant initially pleaded not guilty on 24th August, 2023. On 23rd January, 2024, he entered into a plea bargain and voluntarily pleaded guilty to the charge. He was convicted accordingly under section 215 of the Criminal Procedure Code and sentenced to five (5) years imprisonment on 7th February, 2024.
3. By a Notice of Motion dated 6th May, 2025, the Applicant seeks review of the sentence under section 333(2) of the Criminal Procedure Code, urging that the five months and fourteen days he spent in remand custody before conviction be considered. He also invokes Article 50(2)(p)(q) of *the Constitution* on the right to benefit from the least severe sentence.

Social Inquiry Report

4. The Court called for a social inquiry report. The report shows that the Applicant, a primary school dropout, is pursuing adult education in prison and intends to sit for KEPSEA in November 2025. He admitted to committing the offence while under the influence of alcohol following a quarrel linked to a relationship dispute. He expressed remorse.



5. The report further indicates that the victim later succumbed to injuries sustained from the assault. The victim's aunt expressed bitterness and urged the court to enhance the sentence. Local administrators described the Applicant as a habitual offender with several reports of theft and stated that the community remained hostile towards him. The probation officer did not recommend a non-custodial sentence.

Determination

6. This application invokes the Court's revisionary jurisdiction under sections 362 and 364 of the Criminal Procedure Code. The jurisdiction enables the High Court to satisfy itself as to the legality, correctness, or propriety of a finding, sentence or order of a subordinate court.
7. Section 333(2) of the Criminal Procedure Code obligates sentencing courts to consider the period an accused spent in custody prior to conviction. The Judiciary Sentencing Policy Guidelines reinforce this requirement, emphasizing that failure to comply may occasion excessive or disproportionate punishment.
8. In *Bethwel Wilson Kibor v Republic* [2009] eKLR, the Court of Appeal held that time spent in custody must be factored in during sentencing. Failure to do so is an error justifying interference.
9. I have perused the trial court record and find that it did not take into account the Applicant's pre-trial custody of five months and fourteen days. To that extent, the sentence was not in compliance with section 333(2). Accordingly, I allow the application to that limited extent and order that the period spent in custody be reckoned as part of the Applicant's sentence.
10. On the plea for substitution of the custodial term with a non-custodial one, I have considered the social inquiry report, the views of the victim's family, and the community. The sentiments strongly oppose non-custodial release, citing the gravity of the offence, the fact that the victim succumbed to the injuries, and the Applicant's negative criminal history.
11. The objectives of sentencing, as outlined in the Judiciary Sentencing Policy Guidelines (2023), include retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation. Balancing these objectives against the Applicant's circumstances, I find that a non-custodial sentence would neither serve justice to the victim's family nor assure community protection.
12. In the result, the sentence of five (5) years imprisonment is hereby affirmed, subject only to compliance with section 333(2) of the Criminal Procedure Code by factoring in the Applicant's pre-trial custody of five months and fourteen days. The prayer for substitution with a non-custodial sentence is declined.

Final Orders: -

13.
 - a. Period served by applicant in remand to be computed in the sentence.
 - b. Prayer for review of sentence is declined.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 2ND DAY OF OCTOBER, 2025.

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RACHEL NGETICH
JUDGE



In the presence of :
Ms. Claire for State.
Applicant present.
CA, Elvis.

