



REPUBLIC OF KENYA



KENYA LAW
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**Mwaura v Republic (Criminal Revision E004 of 2023)
[2025] KEHC 16547 (KLR) (14 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16547 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CRIMINAL REVISION E004 OF 2023
BM MUSYOKI, J
NOVEMBER 14, 2025**

BETWEEN

PURITY NJERI MWAURA APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an application for review of sentence in the Chief Magistrate's
Court at Thika criminal case number 3158 of 2017 dated 15-12-2020)*

RULING

1. The applicant was charged, tried and convicted by the lower court for an offence of robbery with violence contrary to Section 296(2) of the Penal Code. After consideration of the applicant's mitigation, the trial court sentenced the applicant to ten years in jail. Following the sentence, the applicant approached this court vide undated notice of motion filed on 28-09-2023 seeking the following orders which I quote in verbatim;
 1. That this application be certified as urgent and be heard at the earliest opportunity possible.
 2. That this Honorable Court be pleased to issue further orders, directions of relief it may deem fit and expedient in the circumstances of this application.
 3. That the application is supported by affidavit of Purity Njeri Mwaura.
2. The following appears at the base of the application;
Reasons Wherefore/humble Prayers
 1. That I humbly request the Honorable court for sentence reduction.
 2. That the Honorable court grants me a non-custodial sentence for the remaining time.



3. That the Honorable court consider the time spent in custody since incarceration, a duration of 4 months.
3. Together with the application, the applicant filed a supporting affidavit which is neither dated nor signed. Considering the circumstances in which the application was filed, the applicant is a layperson and the fact that the respondent has not raised the issue of the lack of signature on the affidavit, I will in the interest of justice make reference to the facts stated in the affidavit.
4. When the applicant appeared before me on 9-09-2025, he told the court that she was applying for review of the sentence. It is therefore clear to me that despite the poor drafting of the notice of motion, the applicant is asking that this court revises the sentence meted upon her downwards noting the period of four months she had been in prison since the date of the conviction.
5. The purview of revision is provided for in Section 362 of the Criminal Procedure Code Chapter 75 of the Laws of Kenya which provides as follows;

‘ The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.’
6. It is trite that the jurisdiction of the High Court in matters revision covers situations where the lower court’s decision being questioned borders on errors of law, illegality or a mistake. In *Martin Maruti Kituyi v Republic* (2013) KEHC 2857 (KLR) the Honourable Justice F. Gikonyo stated this position well when he held that;

‘ Revision primarily serves to put right instances where a finding, sentence, order or proceedings of a lower court are tainted by incorrectness, impropriety, illegality or irregularity. Those words are key pillars that define the Revision jurisdiction. Broadly put, whenever the integrity of any proceeding is put to question, the Revision jurisdiction of the High Court comes into play and may disturb the decision of the lower court purely in the best interest of justice.’
7. The applicant has not pointed out to me any error or illegality or mistake made by the lower court. As submitted by the respondent, the applicant has not demonstrated that the sentence imposed on her was harsh, excessive, illegal or improper.
8. Section 296(2) of the Penal Code provides as follows;

‘ If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds, beats, strikes or uses any other personal violence to any person, he shall be sentenced to death.’
9. The applicant has not challenged the conviction. She has based her application on argument that she has reformed after undergoing rehabilitation and she has gained some skills while in prison. She also claims that she is a single mother of a teenage child and the only bread winner of her extended family which is led by her mother who is also single.
10. Going through the lower court’s record, I see no illegality, impropriety or mistake in the sentence handed to the applicant. The punishment for the offence of robbery with violence provided in the law is death. The trial court gave the applicant ten years. If there would be anything for review, one would



consider enhancement of the sentence but I will not go that route as there is no request for the same. I note that the applicant withdrew her appeal number E034 of 2023 on 11-09-2025 after being warned by this court of existence of a request for enhancement of sentence.

11. Even if I were to take into consideration the period the applicant claims to have spent in jail, I do not think that the cumulative period of incarceration would be excessive or harsh.
12. In view of the above, I find no merits in this application and the same is hereby dismissed.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF NOVEMBER 2025.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT .

Ruling delivered online in presence of applicant at Langata Women Prison and Miss Torosi for the respondent.

