



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Kimutai v Republic (Criminal Revision E306 of 2025)
[2025] KEHC 17328 (KLR) (25 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17328 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E306 OF 2025
RN NYAKUNDI, J
NOVEMBER 25, 2025**

BETWEEN

EMMANUEL KIMUTAI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Representation:

M/s Sidi for the State

1. The Applicant was charged with Assault causing actual bodily harm contrary to Section 251 of the Penal Code. The brief facts of the particulars are that on the 13th day of September 2025 at around 1600hrs at Cheplaskei Village Tapsagoi Location Turbo Sub County, within Uasin Gishu County willfully and unlawfully assaulted Richard Kipkemboi Seurey thereby occasioning him actual bodily harm. The Applicant pleaded guilty, was convicted and sentenced to pay a fine of Ksh 100,000/= or to serve 12 months imprisonment on 27 October 2025.
2. As a consequence of that the Probation Officer filed a presentence review report which had the following components:

D. Current Home And Personal Circumstances

My Lord, the inmate is the son of Richard Seurey and Emily Seurey of Waitaluk village in Turbosub-county within Uasin Gishu County. The inmate is the 5th born in a family of 6 children. The family live in Waitaluk village practicing before his arrest, he worked as a casual worker in his village and also in neighboring shopping where he dropped out of form three due to what he says lack of school fees. He is not yet married but plans to settle down after release from prison.

E. Prison Assessment, Rehabilitation And Re-integration:



Your Lordship, the inmate was carrying out farm work during his stay in1 prison. Prison authorities have nothing negative about him. The complainant is the biological father to the inmate and has since disappeared from home after selling part of the family land and nobody knows about his whereabouts. The inmate's other family members are looking forward to are union. They are eagerly waiting for his release. They sided with the inmate adding that he was against the sale of the family land by the father without consulting other family members.

E. Offender's Attitude Towards Non-custodial Measures

My Lordship, the inmate is positively responsive to early release. He is ready to spent the rest of his remaining term out on a non-custodial sentence. He is also willing to practice what he learned in prison in the community.

F. Recommendations

Your Lordship, with regards to the above information, the inmate is recommended to serve a Community Service Order for a period of 6 months.

Decision

3. First and foremost the fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just peaceful and safe society by imposing just sanctions that have one or more of the following objectives:
 - a. To denounce unlawful conduct;
 - b. To deter the offender and other persons from committing offences;
 - c. To separate offenders from the society, where necessary;
 - d. To assist in rehabilitating offenders;
 - e. To provide reparations for harm done to victims or to the community; and
 - f. To promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.
4. From the reading of the record the sentence imposed should be reduced on account of the relevant mitigating circumstances relating to the offence and the offender. As a consequence of this I exercise discretion to review the custodial sentence and have it substituted with a non-custodial sentence C.S.O for six (6) months at Cheplaskei Primary School. With this order the Applicant shall be removed from custodial correctional facilities and placed under the supervisory of the Probation Officer forthwith. It is so ordered.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 25TH DAY OF NOVEMBER, 2025

.....

R. NYAKUNDI

JUDGE

