



**Muruny v Republic (Criminal Revision E377 of 2025)
[2025] KEHC 17324 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17324 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E377 OF 2025
RN NYAKUNDI, J
NOVEMBER 26, 2025**

BETWEEN

SAMUEL KIPROTICH MURUNY APPLICANT

AND

REPUBLIC RESPONDENT

RULING

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 20th day of August 2025 at Kapkures area in Soy Sub-County within Uasin Gishu County assaulted Nancy Nelima thereby occasioning her actual bodily harm. The Applicant pleaded guilty and was convicted and sentenced to serve 1 year imprisonment on 16 September 2025.

2. As a consequence of that the Probation Officer filed a presentence review report which had the following components:

Sources of information

Other than the information extracted from the court and the police files, this report is informed by an interview with the inmate, his mother Clementina, his brother Cornelius, his neighbor Philip, the prison authorities his village elder and his area chief Mr. Mweno.

Particulars of the offence

On the 20th day of August at Kapkures in Soy Sub County within Uasin Gishu County assaulted Nancy Nelima thereby occasioning her actual bodily harm.

Introduction

This is a sentence review report called for by the Eldoret High Court in respect of the aforementioned having been charged with the offence of Assault. The report appraises his current home and personal



circumstances including family background, suitability of the inmate being released, his personal background and circumstances including family relationships and his health status. The report also highlights the convict's attitude towards the offence and his willingness towards a non-custodial sentence. It ends with the conclusion

Current home and personal circumstances

Family background

The inmate was born in Kapkoros to Mrs Clementina Nge'etich and the late Alexander Murun. He is the 7th born among 9 children, five males and 4 females all adults and married. All his siblings are in meaningful engagements. The family stays on two and a half acres of ancestral land that is used by the convict's mother and his two last born sons, the convict and Cornelius. The mother who is a herbalist has bought three other parcels of land away from home where she has settled her other three sons. The family is well known by the local authorities and in the neighbourhoods with no history of crime. The convict is the only person who has been arrested and convicted from the family.

Personal Background

The inmate was born in Tuigoin village. He attended Kapkures Primary school and later joined Katilu Boys Secondary school where he scored a C-. He doesn't have any skills but resorted to being a stock dealer as a middleman which he has done for quite some time. He was cohabiting with the complainant within the home where the complainant came with her two children aged three and five. The convict and the complainant were blessed with one child within their stay aged one-year-old, who the complainant left with after the inmate was convicted. No one from the convict's family has ever heard from the complainant since then.

Previous Convictions

The offender is known to be a drunkard, which has earned him a one-month conviction before.

Family Relationships

The convict has been in good relationship with his entire family. The only indifferent thing between them and the convict is his alcoholism, which they have reigned on him to stop in vain. Upto when the incident that led to his apprehension and subsequent conviction occurred, he enjoyed a good relationship with everyone in his family. Though his family never approved of his stay with the complainant, their relationship to them seemed to be a mere cohabiting and friendship between two drunkards which they respected and never protested, objected or interfered with even during their stay within the home, until when the complainant left on her own. For the three months he has been in incarceration, he has been visited twice by his mother and once by his brother Cornelius.

Suitability of his release

The convict has a house within the home where he is welcomed to resettle by his mother and siblings who reside within the home. His mother is positive on even supporting him further to settle him on his own land when he will get over his alcoholism. For now, his mother is very much willing to receive him at home.

Prison assessment, rehabilitation and re-integration



Inmate's Views

The inmate is remorseful and regrets his actions. He is aware he was still struggling with addiction which predisposed him to assault the complainant. He is taking personal responsibility for his mistakes and commits to desist from alcoholism so that he can improve his interpersonal relationships. He is optimistic that his stay in custody for the three months is the beginning of his journey to stop alcoholism. He promises to put into practice the lessons he has gotten while in prison on self-discipline, to make his life functional and significant so as to reduce his reoffending and to help him better his relationship with everyone.

Prison Officer's views

The prison authorities indicated that they have had no indiscipline issues with the convict and are positive that he has learnt a lot from the prisons rehabilitation programs which, will help him in managing alcoholism and on improving himself as well.

Family views

Everyone interviewed at home supported the idea of a non-custodial sentence for him. His brother Cleophas and his mother committed to be his support systems while serving his non-custodial sentence if granted. They are hopeful and trusting that from the conversations they have had with him for the times they have visited him in prison, he will change his perspective on alcoholism, and manage himself better.


Local administration views

His area chief supported his release on a non-custodial sanction on grounds that he has never been a troublesome person in his area of jurisdiction. He however emphasized that he supported to overcome his affinity for alcohol which he promised to be among the key players in guiding him.

Inmate's attitude towards non-custodial measures

The inmate is praying to be considered for a chance to serve a non-custodial sentence, where he promises to cooperate in further rehabilitation and better his life as well.

Conclusion

Your honor the convict before court is aged 32. He is a father of one and was a guardian to two of the complainant's children aged 5 and 3, who the complainant moved in with. He is a stock dealer, the  venture he started after his form four. He is the seventh born and a second last son in the family of nine. He lives within his mother's ancestral home where he was cohabiting with the complainant.

The convict understands the offence he was convicted for and deeply regrets his actions. He commits to work on alcoholism which predisposed him to assault the complainant. He is remorseful and expresses readiness to mend his ways where he has the support of his mother and brother who live with him in the same home. They are ready to receive him and resettle him within the home. They assure they will guide him well to observe the non-custodial orders and to continue making amends in all the necessary areas. Though he informed the inquiry that he has reached out to the complainant through the welfare and sought for her forgiveness, the inquiry's effort to reach out to the complainant who the inquiry established



that had left the convict's home, proved futile up to the time this report was submitted as her phone was ever off.

Your honor the findings in the report are of a youthful convict who was a victim of alcoholism. He is ready to perform Community service and will also benefit from continuous rehabilitation under community service program.

Recommendation

In respect to the decision of your Lordship, I recommend a variation of his sentence to a Community Service Order to be performed at Kimurgoi Dispensary under the supervision on Nurse-in-Charge at the facility.

Decision

3. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
 - a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
 - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
 - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - d) Protection of the community: - where the offender is likely to pose a threat to the community.
 - e) Offender's responsibility to third parties: - where there are people depending on the offender.
4. The *Community Service Orders Act* empowers this Court to order an offender to perform unpaid community service in lieu of imprisonment. This sentencing option is available where the offence carries a maximum term of imprisonment not exceeding three years, or where the Court deems it appropriate that any portion of a longer sentence be served through community-based sanctions. The Act recognizes that certain offenders benefit more from structured rehabilitation within the community than from continued incarceration, particularly where there exists a strong support system and genuine prospects for reformation.
5. Having carefully reviewed the Sentence Review Report and the circumstances of this case, I am satisfied that the Applicant meets the criteria for a community-based sentence. He has already served three months in custody, during which he has demonstrated good conduct and gained insight into his destructive patterns of behaviour. The report establishes that he has a stable home environment with his mother and siblings who have committed to supporting his rehabilitation. Significantly, both the prison authorities and local administration have endorsed his release on non-custodial terms. His struggles with alcoholism, while a contributing factor to the offence, also present an opportunity for structured intervention through community service combined with ongoing rehabilitation support.
6. Accordingly, I find that a (6) months period is appropriate and shall be served through community service. The Applicant is hereby ordered to perform unpaid community service at Kimurgoi Dispensary under the direct supervision of the Nurse-in-Charge at the said facility. The supervising officer shall, in liaison with the probation department, submit monthly reports to this Court detailing the Applicant's compliance and progress. The Applicant must strictly adhere to all conditions of this order and continue engaging with rehabilitation programs aimed at addressing his alcohol dependency. Any breach of the conditions of this community service order shall result in immediate cancellation, and the Applicant shall be remanded to serve the remainder of his sentence in custody.



7. It is so ordered.

SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 26TH DAY OF NOVEMBER, 2025.

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R. NYAKUNDI

JUDGE

