



**Wangila v Republic (Criminal Revision E281 of 2025)  
[2025] KEHC 17304 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17304 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E281 OF 2025  
RN NYAKUNDI, J  
NOVEMBER 26, 2025**

**BETWEEN**

**MICHAEL WANGILA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with stealing of motor cycle contrary to Section 278A of the Penal Code. The brief facts of the particulars are that on the 17<sup>th</sup> day of June 2015 at around 2300hrs at Mobet area Soy Sub County within Uasin Gishu County jointly with others before Court stole a motorcycle TVS 100 Red in colour Registration Number KMGJ 696T valued at Kshs 161,000/= the property of Jackson Koronei.
2. On the Alternative Charge he was charged with handling stolen goods contrary to Section 322(1)(2) of the Penal Code. The facts are that on the 17<sup>th</sup> day of June 2025 at Mobet area in Soy Sub County within Uasin Gishu County otherwise than in the course of stealing dishonestly retained one (1) motorcycle TVS 100 Red in colour Registration Number KMGJ 696T knowing or having reason to believe it to be stolen property.
3. The Applicant was convicted on own plea of guilty and was sentenced pay a fine of Kshs 50,000/= in default to serve one (1) year imprisonment on 10<sup>th</sup> July 2025.
4. The Applicant has approached this Court vide an application for review of sentence under Section 362 as read with Section 364 of the CPC.
5. As a consequence of that the Probation Officer filed a presentence review report which had the following components:



## Introduction and sources of information

This sentence review report in respect of Michael Wangila, who is currently serving a two-year custodial sentence for the offence of stealing, contrary to Section 268 of the Penal Code. The report is informed by findings from social inquiry interviews and a comprehensive assessment undertaken to evaluate his suitability for serving the remainder of his sentence under a non-custodial arrangement. Interviews were conducted with the inmate at Eldoret GK Prison, his family members. In addition, the lower court file was perused.

## Current home and personal circumstances

The inmate is the son of Fred Simiyu, who resides in Nairobi, and Emily Wanjala, who lives in Eldoret's Roadblock Estate. He is the first-born in a family of six children. His siblings include Evans Simiyu and Isaack Simiyu, both based in Nairobi, Reba Simiyu, who is married, and Susan Nanyama and Pauline Simiyu, who are still in school. The family is generally stable and maintains cordial relationships.

The inmate dropped out of school and had been engaged in casual work to sustain himself. Prior to his arrest, he was operating a boda boda business using a motorcycle belonging to the complainant, which later led to accusations of theft. He is married to Anne Wanjala and they have two children, both under the age of ten.

The inmate maintains positive relationships with his immediate and extended family, as well as with his spouse. This strong family support presents a valuable resource that can be leveraged to facilitate his rehabilitation under a non-custodial measure.

## Prison Rehabilitation

While in custody, the inmate has been actively involved in the prison activities, working in the construction side as hand assistant. This role has instilled discipline, accountability, and a strong sense of personal responsibility. These skills are expected to support his rehabilitation and enhance his chances of leading a productive and honest life if granted a non-custodial sentence.

## Offenders' attitude and impact of imprisonment

The inmate has expressed remorse for his actions. He acknowledges that his imprisonment has had an impact on both his life and his family, who have been left vulnerable in his absence as the primary provider. He has also gained an understanding of the importance of respecting other people's property and maintaining self-discipline.

## Conclusion

Your Lordship, the inmate is a family man with a young family who relied entirely on him for their sustenance while he operated a boda boda. Our inquiry established that he had been hired by the complainant to operate a motorcycle and remit Ksh 300 daily. However, in this instance, the inmate failed to honour the agreement, went missing, and did not respond to the owner's calls. The owner subsequently located him and pressed charges of stealing. It is noted that the motorcycle was recovered and returned.

The inmate expresses remorse for his actions, acknowledges his mistakes, and seeks an opportunity to rebuild his life and continue providing for his family. In view of these circumstances; the recovery of the motorcycle and the availability of social support, we conclude that the inmate would benefit



more from supervision and rehabilitative interventions under a non-custodial sentence rather than continued incarceration.

#### Recommendation

The inmate may be considered to serve community service order (CSO) for the remaining period of 4 months 2 Weeks. To be serve at Chief's Office Kapkoros location.

#### Analysis and determination

6. 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.
7. 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.
8. 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 four (4) months and two (2) weeks in custody following his failure to pay the fine imposed, during which he has demonstrated good conduct and actively participated in prison construction activities as a hand assistant. This role has instilled in him discipline, accountability, and a strong sense of personal responsibility. The report establishes that he has a stable family structure, being married to Anne Wanjala with whom he has two children both under the age of ten who depend entirely on him as the primary provider. He is the first-born in a family of six children and maintains positive relationships with his immediate and extended family, including his parents Fred Simiyu and Emily Wanjala. Significantly, the motorcycle which was the subject of the charge was recovered and returned to the complainant. The circumstances reveal that the Applicant had been hired to operate the motorcycle and remit Kshs 300 daily, but failed to honor the agreement, leading to the charge. The Applicant has expressed genuine remorse for his actions, acknowledged his mistakes, and demonstrated his receptiveness to rehabilitative measures. His strong family support system presents a valuable resource that can be leveraged to facilitate his successful reintegration into the community.
9. Accordingly, I find that the remaining period of four (4) months and two (2) weeks is appropriate and shall be served through community service. The Applicant is hereby ordered to perform community service at the Chief's Office, Kapkoros Location, under the direct supervision of the Area Chief. The supervising officer shall, in liaison with the probation department, submit monthly reports to this Court detailing the Applicant's compliance and progress. 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.

10. It is so ordered.

**SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2025.**

.....

**R. NYAKUNDI**

**JUDGE**

