



REPUBLIC OF KENYA



KENYA LAW
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**Kipkorir v Republic (Criminal Revision E294 of 2025)
[2025] KEHC 17985 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17985 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E294 OF 2025
RN NYAKUNDI, J
DECEMBER 3, 2025**

BETWEEN

DENNIS KIPKORIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged of breaking into a building and committing a felony contrary to Section 306 (a) of the penal code. The brief facts are on the 7th day of August 2025, at Seiyo village in Kesses Sub County within Uasin Gishu County, broke and entered the shop of Paul Kimaru Ngetich and stole two bags containing one stethoscope, one blood pressure machine, one thermometer, Seiyo self-help group certificates, passport and 33 photocopies of national identity cards al valued at Kshs. 18,700/=.
2. The Applicant pleaded guilty and was sentenced to serve 6 months' imprisonment on 14th October 2025. In the pre-sentence inquiry report filed at the trial court dated 14th October, 2025 the probation officer made a conclusion that a custodial sentence would disrupt his family's welfare, leaving his sister and nephew dependent on unreliable income source. The report recommended a 1-year probation sentence.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the Criminal Procedure Code as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6)(a) &(b) of *the Constitution*.
4. 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.
5. 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. In this case, the offence of breaking into a building and committing a felony contrary to Section 306(a) of the Penal Code falls within the statutory threshold, and the circumstances warrant consideration of a community-based sentence.
6. Having carefully reviewed the pre-sentence inquiry report dated 14th October 2025 and the circumstances of this case, I am satisfied that the Applicant meets the criteria for a community-based sentence. He has already served approximately one and a half (1½) months in custody, demonstrating that he has experienced the consequences of his actions. Taking into account the statutory remission of one-third (1/3) that ordinarily applies to his six (6) months' imprisonment term, the Applicant's effective sentence would be four (4) months, leaving a balance of approximately two and a half (2½) months. The pre-sentence inquiry report establishes that the Applicant has family responsibilities, particularly noting that his sister and nephew depend on him for support, and that continued incarceration would disrupt his family's welfare, leaving them reliant on unreliable income sources. The probation officer concluded that a custodial sentence would be harsh and recommended a one-year probation sentence instead. The Applicant pleaded guilty at the earliest opportunity, demonstrating genuine remorse and acceptance of responsibility for his actions. He is a first offender with no prior criminal record, which indicates that he is receptive to rehabilitative measures. His family support system presents a valuable resource that can be leveraged to facilitate his successful reintegration into the community.
7. Accordingly, I find that the remaining period of approximately two and a half (2½) months is appropriate and shall be served through community service. The Applicant is hereby ordered to be to perform unpaid community service at the Chief's Office in his locality, under the direct supervision of the Area Chief. The community service shall be completed within a period of two (2) months from the date of release. 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 is sternly warned that any breach of the conditions of this community service order, including failure to complete the required hours within the stipulated period or commission of any offence during the supervision period, shall result in immediate cancellation of this order, and he shall be remanded to serve the remainder of his sentence in custody. The Applicant is strongly cautioned to desist from any further criminal conduct and to remain a law-abiding member of society.
8. Orders accordingly.

SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 3RD DAY OF DECEMBER, 2025.



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R. NYAKUNDI
JUDGE

