



REPUBLIC OF KENYA



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

**Kipruto v Republic (Criminal Application E371 of 2025)
[2025] KEHC 17679 (KLR) (1 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17679 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL APPLICATION E371 OF 2025
RN NYAKUNDI, J
DECEMBER 1, 2025**

BETWEEN

KENNETH KIPRUTO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with willfully obstructing a Police Officer in the execution of official duty contrary to Section 103(a) of the *National Police Service Act* No. 11A of 2011. The brief facts are that on the 23rd day of June 2025 at about 1330hrs at Kamanin village (tarma road (in Marakwet West Sub County within Elgeyo Marakwet County jointly within others not before Court you willfully obstructed No. 91596 Corporal Joel Mosiere and No. 224603 PC Hillary Kirui, Police Officers who at the time of the said obstruction were acting in the execution of their official duty.
2. The Applicant pleaded guilty and was fined Ksh One Million in default to serve 1 year imprisonment on 1st September 2025.
3. The Applicant has approached this Court vide an application for review of sentence under Section 362 as read with Section 364 of the CPC.
4. 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 is in respect of Kenneth Kipruto who is serving one-year imprisonment for the offence of Willfully obstructing police officer in the execution of official duty. In generating the report, we interviewed the inmate currently held at



Eldoret G.K Prison, prison authority, his family members, spouse, neighbours and area administrators.

Current Family And Personal History

Family Background.

The social inquiry established that the inmate is the second-born of four children of Gilbert Kiptoo Korir and Elizabeth Kipyia, both of whom are alive and reside in Kamaning Village, Kaptiony Location, Marakwet West Sub-County. His siblings are Risua Chelagat, who is married and lives in Kokwet; Eric Kiplimo, a casual labourer in Kondabilet; and Purity Chemutai, who is married and lives in Cheploch Village.

His parents were previously peasant farmers but are no longer productive. His father was reported to abuse alcohol and to spend much of his income from casual work on drinking. His mother also abused alcohol in the past but has since stopped; however, she is unwell with a chronic ailment and has returned to her maiden home to seek treatment.

He lived with his nuclear family within his parents' homestead on a portion of the five-acre ancestral land, which has been subject to disputes. During the inquiry, only his spouse was available for interview. She reported that his confinement has left the family destitute, as he was the main breadwinner and also supported his mother with upkeep and medical needs. She appealed for his release so that he can resume his family responsibilities. She described him as polite and harmless when sober, though she acknowledged incidents of violent behaviour when he is intoxicated.

Personal history

The inmate who says was born in 1993 in Kamning Village, has an incomplete primary education, having left school in Class Seven due to financial challenges. Since then, he has relied on domestic chores and informal casual jobs for survival, with no formal skills training. He is married to Sheila Chepkemoi, and they have two young children.

The family depends on casual labour and small-scale maize farming, though their most recent harvest was sold to meet medical expenses. At the time of inquiry, his wife and children were still accommodated at her native home seeking support.

Before his arrest, Ken lived in a two-room semi-permanent house and sustained himself through informal work. He acknowledges a history of alcohol abuse involving illicit brews but denies using other substances. Although previously he associated with criminal allegations, this appears to be his first conviction. During our interaction, he confirmed being in good health.

Prison Assesment Rehabilitation And Re-intergration

Prison authorities at Eldoret GK Prison submitted that for the period of about 3 months the inmate has been in the facility, he has been of good behavior and adhered to Prison routine. He has undergone mentorship programme and received psychosocial support services for behavior modification. They are optimistic that he can seize the opportunity and reform with the community.

If released, the inmate hopes to join his family at Kamaning in Chebororwa where he has ready accommodation. He intends to initiate vegetable farming and engage in casual jobs to earn a living. He has promised to check his drinking behavior and desist from any acts of violence or lawlessness. The area administrators endorsed his early release being hopeful that



he has learned his lesson and that he will change. They promised to support community-based court measures.

Offenders' Attitude Towards Non-custodial Sentence:

The inmate regrets his previous violent conduct, disregard to the law and promise to change. He is receptive to community-based court sanction and willing to submit to conditions of community service orders. He says his nuclear family members are already experience harsh impact of his incarceration.

Conclusion

The social inquiry shows that the inmate comes from a socio-economically vulnerable family and that his incarceration has left his spouse and young children without support. Although he has a history of alcohol abuse and past incidents of violence when intoxicated, he is generally described as polite and non-violent when sober.

Prison authorities reported that he has demonstrated good behaviour, participated positively in mentorship and psychosocial programmes and shown willingness to reform. Community leaders who initially opposed his consideration for non-custodial measures, now seem to support his early release and are prepared to assist with community-based measures. They believe the inmate has learned his lesson and is unlikely to engage in further criminal behavior or misconduct.

The inmate is committed to resuming his family responsibilities, pursuing casual work and small-scale farming and addressing his alcohol abuse upon release. He is receptive to a non-custodial sentence and willing to comply with conditions therein. Overall, our findings indicate that the inmate may be afforded a chance for supervised non-custodial sentence for community-based rehabilitation and reintegration.

Recommendation

My Lord, in view of the latest development which points to improved home situation and community acceptance, we find him suitable and recommend that his sentence be varied to 6 months of community Service at Kamoning Primary School. He will be supervised by the school Headteacher.

Decision

5. The principles of sentencing and all its aims are well articulated in the Sentencing Policy Guidelines of the Judiciary 2023. The application of it must be construed within the constitutional imperatives under the Bill of Rights commonly referred to as Chapter 4 of *the Constitution*. One of the key pillars in sentencing is the provisions under Article 25 which states inter alia that the rights and fundamental freedom from torture and cruel, inhuman or degrading treatment or punishment should underpin exercise of discretion of a Judicial Officer when contemplating imposition of a sentence against a particular offender who has been found guilty of a specific crime.
6. The contemporary criminal justice in Kenya is driven mainly by the retributive or deterrent objective. There is less emphasis on restorative justice or rehabilitation. Models of justice are commonly divided into three main categories: retributive, deterrent and restorative. Retributive justice focuses on the moral dimension of justice. It emphasized the notion that perpetrators of a crime or those who fall to abide by laws of customary norms “deserve” to be punished for their wrongdoing. On the other hand, a deterrent view of justice focuses on the instrumental dimension of justice. It emphasizes that punishment for wrongdoing is necessary to prevent further violations of the law and to signal the



boundaries of socially acceptable behavior. Finally, the restorative view of justice focuses on the need to rebuilt or restore relationships and/or socio-economic status. The form of justice includes scope for compensation as a way of correcting wrongdoing and achieving justice.

7. The Superior Courts have delved into the issue of sentencing which is one of the core functions of trial Courts within our Criminal justice system. In the *Fatuma Hassan Salo v Republic* [2006] eKLR Makhandia J as he then was remarked; Thus, the court should be guided by evidence and sound legal principles when it comes to the arrival of its decision. He also stated that the court should put into consideration all the relevant factors and exclude the irrelevant factors. In addition, the Court in *Peter M. Kariuki v Attorney General*, [2016] eKLR also made the following observations; That a Court has been granted discretion in a manner that is both judicial and reasonable – not upon caprice or personal opinion. This has been emphasized in the judgments of other cases to be useful to the appeal court when analyzing the judgment of a Lower Court.
8. The Sentencing Guidelines of 2023 provide a foundation and a reference point for Judges and Magistrates in exercising discretion. The Policy Guidelines provides for a three-step approach that is to be applied by a trial Court in individualizing specific sentences befitting specific offences.
 - a. Sentencing options – The Court is meant to consider the sentencing options that are provided for by the statute where the crime falls under. This means a reference to the statute that provides for the crime in question.
 - b. Custodial v non-custodial – For the statutes that provide for both custodial and non-custodial options, the guidelines give principles that are to be considered in analyzing which of these two orders would be the most appropriate.
 - c. The third step is twofold, the choice that is to be considered depends on which option was made in step 3.
 - i. For a non-custodial sentence, the guidelines have also provided a policy through which the Courts discretion is to be applied in choosing the most appropriate non-custodial sentence and eventually mitigation and aggravating circumstances are expected to be put into consideration
 - ii. For imprisonment, the same applies, that the guidelines have provided for a policy to be used in determining how long the term of imprisonment should be after the consideration of aggravating and mitigating circumstances.
9. A proper recrafted legal framework is needed to meet the challenging task of appropriate sentencing given the disparities on the various sanctions of what one considers to be the same offence with the prescribed sentence by the Legislature.
10. In the case at bar the social inquiry report dated 20th November 2025 established that he is a suitable candidate to serve a non-custodial sentence of six months community service at Kamoning Primary School. Taking all factors into account I hereby exercise discretion for a declaration to the Officer in Charge Eldoret Prisons to remove the Applicant from custodial wards and have him released to the Directorate of Probation and After Care Services to supervise the remainder of the term to be served under their supervision. It is so ordered.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 1ST DAY OF DECEMBER 2025

.....

R. NYAKUNDI



JUDGE

