



**Wanyonyi v Republic (Criminal Revision E353 of 2025)
[2025] KEHC 17936 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17936 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E353 OF 2025
RN NYAKUNDI, J
DECEMBER 3, 2025**

BETWEEN

EUGENE WANYONYI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged of stealing contrary to section 268(1) as read with section 275 of the penal code. The brief facts are on the 16th day of October 2025, at around 1940hrs at Silver Line area in Eldoret city Turbo Sub County within Uasin Gishu County, jointly with others not before court, stole a mobile phone make Infinix X601 valued at Kshs. 38,000/= and Kshs. 1,800/= in cash the property of Ismael Hussein.
2. The Applicant pleaded guilty and was sentenced to serve 18 months' imprisonment on 22nd October 2025.
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 exist genuine prospects for reformation and successful reintegration into society. In the present case, the Applicant was sentenced to eighteen (18) months' imprisonment on 22nd October 2025 and has been serving this custodial sentence since that date, which is approximately one and a half (1½) months to date.
5. Having carefully considered the circumstances of this case, the nature of the offence, and the time already served by the Applicant, I am satisfied that the sentence can appropriately be served through community service. Taking into account the statutory remission of one-third (1/3) that ordinarily applies to his eighteen (18) months' imprisonment term, the Applicant's effective sentence would be twelve (12) months. He has already served approximately one and a half (1½) months in custody, during which time I am persuaded that he has had opportunity to reflect upon his actions and appreciate the gravity of the offence. The Applicant pleaded guilty at the earliest opportunity, demonstrating remorse and acceptance of responsibility. Accordingly, I find it appropriate to have him serve 6 months through community service at the area chief's office. The community service shall be completed within a period of six (6) months from the date of release. The supervising officer shall, in liaison with the Probation Department, submit quarterly progress 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 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.
6. Orders accordingly.

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

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R. NYAKUNDI
JUDGE

