



**Godia v Republic (Criminal Appeal 1 of 2021)  
[2025] KEHC 18776 (KLR) (18 December 2025) (Sentence)**

Neutral citation: [2025] KEHC 18776 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VIHIGA  
CRIMINAL APPEAL 1 OF 2021  
JN KAMAU, J  
DECEMBER 18, 2025**

**BETWEEN**

**WILLIAM GODIA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**SENTENCE**

**Introduction**

1. In its decision that was delivered on 27<sup>th</sup> May 2025, this court relied on the case of Mbugua & 6 Others vs Attorney General & 3 Others (Constitutional Petition E002 & E003 of 2024 (Consolidated)) [2025] KEHC 1248 (KLR) (24 February 2025) (Judgment) wherein this very court held that it was discriminatory to deny offenders who had been convicted of the offence of robbery with violence and attempted robbery with violence the right to have their mitigation during trial considered, while the non-capital offenders enjoyed that right.
2. It was in that regard that this court directed the Applicant herein to file his mitigation documents for consideration by this court. He only filed a Recommendation letter in support of his mitigation on 17<sup>th</sup> December 2025 after the court gave him an opportunity to do so. Parties submitted orally on the Applicant’s mitigation.

**Legal Analysis**

3. In his Written Submissions that were dated and filed 7<sup>th</sup> July 2025, the Applicant submitted that he had lived peacefully with fellow inmates and prison administration. He pleaded with the court to consider that he had reformed and rehabilitated and grant him a second chance in life through substitution of the death penalty with a lenient proportionate sentence.



4. He sought for the court's forgiveness on behalf of the victim and the society at large asserting that man was to err and that it did not mean that if someone committed such an offence, he would be unable to reform. He was remorseful and promised not to repeat the offence again.
5. He urged the court to consider the primary purpose of a sentence of imprisonment as stipulated in the United Nation Standard Minimum Rules (Mandela Rules No 4) and the Prisons' motto, "Kurekebisha na Haki" and note that the longer the sentence the more difficult it becomes for a reformed person to reintegrate back into the society. He pleaded with the court to consider that he was from a poor background and that the long incarceration would continue to ruin his life. He also urged the court to consider Sections 216 and 329 of the Criminal Procedure Code while reviewing his sentence.
6. In his oral submissions, he added that he had been unwell and that the doctor told him not to work anymore. He stated that he had learnt how to make clothes. He said that he attended the course for seven (7) months then stopped after he got sick. He indicated that he had no certificate or letter of recommendation. He subsequently filed a letter of recommendation dated 11<sup>th</sup> December 2025 that was signed by ASP Elias P Sortum on behalf of the Officer- In- Charge Kibos Maximum Security Prison on 17<sup>th</sup> December 2025. He pointed out that he was young when he was arrested in 2014 and hence, asked for an opportunity to go home.
7. On its part, the Respondent noted that the Pre-Sentence Report was negative and that the Applicant had a negative attitude towards prison authorities. It proposed that he continues serving the sentence as he had not been rehabilitated. In this regard, it urged the court to mete out a sentence that was commensurate with the offence that he had committed and that in doing so, this court ought to be guided by the Sentencing Guideline Policies and the objectives of sentencing. It was emphatic that justice not only had to be done but it also had to be seen to have been done. It, however, left the matter to the court as it noted that the letter of recommendation was different from what was indicated in the Pre-Sentence Report.
8. According to the Pre-sentence Report of J. Sahani, Probation Officer, Vihiga dated 15<sup>th</sup> August 2025 and filed on 5<sup>th</sup> September 2025, the Applicant was thirty-nine (39) years old and had spent ten (10) years in prison. He reported that he attended Koibarak Primary School in Aldai Constituency, Nandi County and sat for his Kenya Certificate of Primary Education (KCPE) and attained a score of 317 marks. However, his mother disputed that claim and stated that he dropped out of school in Class Six (6).
9. It was reported that he later acquired skills in motor vehicle driving through informal apprenticeship and after gaining experience was issued with a driver's licence enabling him to work as a truck driver operating along Kenya-Uganda route. His mother again challenged the said report stating that he did not receive any training. She reported that they were living together when he left to visit his maternal grandmother but he never returned only for her to learn that he had been arrested in connection with the offence herein.
10. He was a first offender and had several health challenges as he had contracted HIV/AIDS and while in prison, he contracted Tuberculosis, a condition that limited his participation in vocational programs involving dust or physical exertion. It was further reported that during the Covid-19 pandemic, he begun training in shoe-shining but was forced to discontinue due to quarantine and isolation measures after contracting the virus.
11. He maintained his innocence and asserted that he was falsely implicated. He denied knowing the complainant or having any involvement in the robbery.



12. His family reported that he was arrested while still young and expressed concern for his well-being in prison alleging that he had suffered a broken arm at the hands of prison officers. Her mother was ready to receive him back in her rental house until he was able to settle in his share of his deceased father. She pleaded with court to be lenient on him.
13. Efforts to locate the victim were unsuccessful. The Local Administration and the community opined that the Applicant's paternity was unknown and, therefore, there was little known about him apart from unverified rumours that he had a history of robbery. They expressed strong opposition to his release.
14. According to the reports from prison authorities, the inmate had demonstrated persistent signs of indiscipline, aggressiveness and non-compliance with prison regulations. They pointed out that a notable incident occurred during his incarceration at Kisumu Maximum Prison, where he resisted being handcuffed after being found in violation of institutional rules and that his refusal to cooperate resulted in a physical altercation during which prisoners were forced to restrain him and in the process, he sustained a fracture to his left arm which was later fitted with an iron rod.
15. They further asserted that he had exhibited a negative attitude towards rehabilitation and that despite the length of his incarceration he had not acquired any certificates or completed any formal vocational or educational programs. They added that although he was suffering from Tuberculosis which was a reason for avoiding certain physical activities, he had also declined to participate in less strenuous programs such as Bible Study and other non-physical rehabilitation sessions.
16. The Probation Office found him unsuitable for re-sentencing. It pleaded with the court to let him remain in custody until he demonstrated clear behavioural improvement and a willingness to engage in meaningful rehabilitation.
17. Notably, the principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya have added community protection and denunciation as sentencing objectives. The objectives are not mutually exclusive and can overlap.
18. It was also important that the sentence communicate to the community, condemnation of his criminal act. The sentence would indirectly send a strong signal to deter would be offenders from committing such an offence. The sentence also had to be one that was hinged on retributive justice for the secondary victims.
19. If the court did not take into account the three (3) objectives of deterrence, retribution and denunciation of his offence at the time of sentencing him, chances of the Petitioner being reintegrated in the society would be next to impossible as there were possibilities of being harmed. Justice not only needed to be done but it had to be seen to be done.
20. It was clear from the facts of the case that on the 15<sup>th</sup> day of May 2013 at Chavakali Township, Chavakali Sublocation in Vihiga County within Western Region jointly with others not before the court while armed with offensive weapons namely pangas and rungus robbed of Stanley Shamalla one mobile phone make Nokia C-3, one wallet and cash Kshs 650/= all valued at Kshs 10,650/= the property of Stanley Shamalla and at the time of such robbery, used actual violence to the said Stanley Shamalla.
21. As can be seen hereinabove, one of the objectives of sentencing and/or incarceration was majorly to rehabilitate offenders. This court was not persuaded to find that the same had been achieved herein as the Applicant had not undertaken any life skill that would enable him be re-integrated in the society.



The report from the prison authorities was that he was negative about undertaking rehabilitative programmes.

22. However, in the letter of recommendation dated 11<sup>th</sup> December 2025, he had been recommended for good behaviour towards both inmates and staff. The letter indicated that he had shown exemplary character while serving his sentence in the prison.
23. In view of the conflicting information, it was difficult to understand which version was correct and/or to ascertain if the Applicant had been rehabilitated. The Social Enquiry showed that his mother negated his numerous assertions painting him as a person who was not honest. This court could not, therefore, trust the reason he had given for not engaging in any rehabilitative programmes in the prisons. There had to be some sort of incentive for a sentence to be reviewed.
24. Having considered the facts of this case, the Applicant's mitigation, the Prosecution's response thereto and the Pre-Sentence Report, this court came to the firm conclusion that reviewing the Applicant's sentence at this point would not be reasonable. There was need to give him an opportunity to gain some skills which would enable him engage in gainful employment once he was released from prison. Indeed, his continued denial that he did not commit create doubt in the mind of this court if he was remorseful of the offence that he committed and/or if he had been reformed.

### **Disposition**

25. Accordingly, the upshot of this court's decision was that the Applicant's conviction and sentence be and are hereby upheld and left undisturbed at this stage as they were both safe.
26. For the avoidance of doubt, the Applicant be and is hereby at liberty to file a fresh application for review of his sentence after demonstrating the skills that he had acquired while in prison.
27. It is so ordered.

**DATED AND DELIVERED AT VIHIGA THIS 18<sup>TH</sup> DAY OF DECEMBER 2025**

**J. KAMAU**

**JUDGE**

