



**Bosire v Director of Public Prosecutions (Criminal Revision
E108 of 2025) [2026] KEHC 794 (KLR) (19 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 794 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E108 OF 2025
TW CHERERE, J
JANUARY 19, 2026**

BETWEEN

DUKE OMOSA BOSIRE APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

1. The Applicant was charged with and convicted of the offence of grievous harm contrary to section 234 of the Penal Code, following a plea of guilty entered before the trial court, and was sentenced accordingly. The Applicant has moved this Court by way of revision, challenging the sentence imposed.
2. The Applicant has moved the Court by way of an undated Notice of Motion seeking revision of the sentence imposed by the subordinate court.
3. The application is expressed to be brought under Articles 19, 20, 21, 23(1), 27, 28 and 50(2)(q) of *the Constitution* of Kenya, 2010, Article 165 of *the Constitution*, and sections 362 and 364 of the Criminal Procedure Code.
4. The application is supported by the Applicant's affidavit sworn on 08th December 2025, in which he deposes that he was convicted of the offence of grievous harm contrary to section 234 of the Penal Code and sentenced to seven (7) years' imprisonment in Nyamira Criminal Case No. E497 of 2025, and urges the Court to review the sentence on the basis of remorse, reconciliation and personal reform. It is further supported by an undated affidavit sworn by Cliff Matundura Bosire, the complainant, who confirms reconciliation with the Applicant and similarly urges the Court to exercise leniency.
5. I have considered the application in light of the grounds on the fact of the application and the two supporting affidavits.



6. This Court’s revisionary jurisdiction is conferred by section 362 of the Criminal Procedure Code, which empowers the Court to call for and examine the record of subordinate court proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order, or the regularity of such proceedings.
7. That jurisdiction is expressly circumscribed by section 364 of the Criminal Procedure Code, and in particular section 364(5), which bars the exercise of revisionary powers in circumstances where an appeal lies and no appeal has been preferred.
8. The leading authority on the principles governing interference with sentence is *Wanjema v Republic* (1971) EA 493. At page 494, the Court of Appeal stated:

“An appellate court should not interfere with the discretion which a trial court has exercised as to sentence unless it is evident that it overlooked some material factor, took into account some immaterial factor, acted on a wrong principle or the sentence is manifestly excessive in the circumstances of the case.”
9. That authority underscores that matters of sentencing discretion, mitigation, and proportionality are to be addressed within the appellate jurisdiction, and not through the limited supervisory remit of revision.
10. In the present case, the Applicant does not contend that the trial court lacked jurisdiction, misapprehended the law, imposed an illegal sentence, or conducted the proceedings irregularly.
11. The grounds advanced in the application and the supporting affidavits are directed at mitigation and pleas for leniency, matters that were within the sentencing discretion of the trial court.
12. To accede to the Applicant’s request would be to convert the revisionary jurisdiction into an appellate one, contrary to sections 362 and 364 of the Criminal Procedure Code and the settled principles articulated by the Court of Appeal in *Wanjema v Republic* (supra).
13. Whereas Article 50(2)(q) of *the Constitution* guarantees the right of appeal or review as provided by law, it does not expand the scope of revision beyond the limits expressly set by statute.

Disposition

14. In the absence of any demonstrated illegality, incorrectness, impropriety or material irregularity on the face of the record, this Court finds no basis for interference with the sentence imposed by the subordinate court.
15. It is therefore hereby ordered:
 1. The undated Notice of Motion seeking revision of sentence is hereby disallowed.
 2. The Applicant is at liberty to exercise his right of appeal, should he so wish, in accordance with the law.

SUBPARAGRAPH 3.

This file shall be closed

DELIVERED AT NYAMIRA THIS 19TH DAY OF JANUARY\ 2026

WAMAE. T. W. CHERERE

JUDGE



Appearances

Court Assistant - Hilda

Applicant - Present in person

For the DPP - Mr. Chirchir (SADPP)

