



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

CRIMINAL REVISION NO. E054 OF 2024

ALEXANDER KIPRONOAPPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

- [1] The applicant was charged with the offence of threatening to kill contrary to section 223 (1) of the Penal Code.
- [2] The particulars of the offence were that he had on 25th December, 2020 at around 3.00 pm at around Kutus area within Kirinyaga county without lawful excuse threatened to kill one Dorothy Nyagoithie Muthike by sending threatening message ‘lazima tuwekwe kwa TV’ meaning we be on TV news. ‘Ambia watu wa kwenyu watayarishe mazishi ya watu wanne’ meaning, tell your people to prepare to bury 4 people, intended to mean that he would kill her and the children.
- [3] He was sentenced to 6 years’ imprisonment on 22nd June, 2023.
- [4] On 25th July, 2023 he applied for sentence review under Section 333 (2) of the CPC for the time spent in remand. On 6th May, 2024 the court held that he was entitled benefit from those 4 months and 29 days. Hence, sentence of 6 years would commence on **23rd January, 2023**. He did not pursue another appeal.
- [5] The applicant has been in custody for 2 years. He is set to be released from prison on 22nd June, 2027. He seeks a review of his sentence as he has been rehabilitated.
- [6] He has attained a certificate in bible study, he is a first offender and he is remorseful.
- [7] He seeks a non-custodial sentence.
- [8] The prosecution submits that the applicant fails to furnish evidence of rehabilitation and skills acquired while in prison.
- [9] The Prison Report dated 8th October, 2025 recommends that the prisoner is fully rehabilitated.

[10] The sentence review report dated 6th January, 2026 recommends for a probation order to rehabilitate the applicant.

ISSUE

[11] Whether the applicant is entitled to sentence revision due to rehabilitation.

Analysis

[12] This Court's jurisdiction to entertain a revision is derived from sections 362 and 364 of the Criminal Procedure Code, which empower the High Court to examine the correctness, legality, or propriety of any sentence passed by a subordinate court.

[13] In **Francis Karioko Muruatetu & another v Republic** [2017] eKLR, the Supreme Court underscored the importance of individualized sentencing, taking into account the offender's personal circumstances and prospects of reform in appropriate cases.

[14] In the present case, the Applicant is a first offender, has served a substantial portion of the custodial sentence, and has demonstrated remorse. The Prison Report before Court confirms that the Applicant has maintained good conduct and undergone rehabilitation programs while in custody. The Sentence Review Report independently recommends a probationary sentence as suitable for his continued reform and reintegration into society.

[15] Save in cases of minimum sentences or in serious or aggravated offences such as murder, robbery with violence, defilement and other serious offences, where the offender should go through the full penal program for his rehabilitation, in a proper case the court may review a sentence of imprisonment which has been substantively served to allow for a non-custodial sentence for the balance of the custody time. Of course, there will be cases where it may be wrong to make such an order.

[16] In the circumstances, this Court is satisfied that the Applicant has demonstrated sufficient rehabilitation to warrant intervention.

[17] As recommended by the probation Office, the sentence imposed on the applicant shall be reviewed to a non-custodial sentence.

ORDERS

[18] Accordingly, for the reasons set out above, the Court revises the sentence imposed on the applicant so as to allow for his immediate release on a **Probation**

Order for 12 months, which is equivalent to the remainder of his prison term ending on 23/1/2027.

Order accordingly.

DATED AND DELIVERED THIS 12TH DAY OF FEBRUARY 2026.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Mwangi for the DPP.

Applicant in person.