

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL APPEAL NO. E069 OF 2025

ESTHER MUMMY
WEBISA.....APPELLANT

VERSUS

REPUBLIC.....
RESPONDENT

SENTENCE RULING.

1. The appellant was convicted of the offence of arson contrary to section 332(a) of the Penal Code and sentenced by the trial court to ten (10) years' imprisonment. Upon appeal, this court upheld the conviction but interfered with the custodial sentence. Having carefully reconsidered the circumstances of the offence, the personal circumstances of the appellant, and the interests of justice, the court set aside the custodial sentence and substituted it with a non-custodial sentence.
2. Prior to resentencing, the court called for and considered a probation officer's report, which forms part of the record. The report reveals that the appellant is a first offender, expresses remorse, and has community support. It further indicates that the victim principally seeks compensation for the loss occasioned by the appellant's actions rather than the continued incarceration of the appellant. The report assesses the appellant as suitable for supervision within the community, subject to structured intervention.
3. In arriving at this determination, the court was guided by section 329 of the Criminal Procedure Code, which obliges the court to receive and consider evidence in mitigation before passing

sentence. The court also takes into account the Sentencing Policy Guidelines, which emphasise proportionality, rehabilitation, restorative justice, and the use of non-custodial sentences where appropriate. Although arson is a serious offence, the sentence imposed must reflect both the gravity of the offence and the offender's culpability, while avoiding undue harshness.

4. The court is satisfied that a non-custodial sentence, coupled with probation supervision and rehabilitative measures, will better serve the objectives of sentencing in this case.
5. Accordingly, the appellant is hereby directed to report to the Probation Officer, Kibera, for anger management counselling for the period specified by the probation office. The victim is at liberty to pursue a civil claim for recovery of damages arising from the loss suffered.

Orders accordingly.

**Ruling dated and delivered virtually this 19th day of
February 2026.**

**D. KAVEDZA
JUDGE**

In the presence of:

Mr. Okeke h/b Ouma for the Appellant

Mr. Mutuma for the Respondent

Karimi Court Assistant.