

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT CHUKA
CRIMINAL REVISION NO. E074 OF 2025

HARRIET KARIGU

.....**APPLICANT**

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. Harriet Karigu (Applicant) was charged with the offence of dealing with alcoholic drinks contrary to section 7(1) (B) as read with section 62 of the Alcoholic Drinks Control Act. She was convicted on her own guilty plea by Hon. T. Wachira (R.M) on 6th May, 2025.

2. In submissions before court, Humphrey Marete, the Assistant Chief of Ikumbo sub-location stated that

the Applicant was a notorious illicit brewer who brewed and sold alcohol in her home situate next to the local primary and secondary schools. He indicated that she was a repeat offender.

3. The court called for a Probation Officer's report before sentencing. The report filed on 19th May, 2025 confirmed that the Applicant was a repeat offender and that she lived next to a primary and secondary school from where young people were lured to her drinking den. The report further stated that the Applicant had adult children who lived with their own families and that the Applicant did not have minor dependants as she had indicated to the court.

4. Upon consideration of the Applicant's mitigation and the probation report, the trial court sentenced her on

21st May, 2025 to serve 18 months in prison without option of a fine. In so sentencing, the court took into consideration the fact that she was a repeat offender.

5. The Applicant has now approached this court for revision of her sentence. She prays that she be granted a non-custodial sentence.

6. The Applicant states that she is remorseful and undertakes not to engage in illicit brewing again. That she has learnt her lesson and has undergone adequate rehabilitation in prison.

7. This court's revisionary jurisdiction is provided for under section 362 -364 of the Criminal Procedure Code as follows:-

“362. The High court may call for and examine the record of any criminal proceedings before

any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”

364. (1) In the case of a proceeding in a subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may -

(a) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 354, 357 and 358, and may enhance the sentence;

(b) in the case of any other order other than an order of acquittal, alter or reverse the order.

(c) -

(2) No order under this section shall be made to the prejudice of an accused person unless he has had an opportunity of being heard either personally or by an advocate in his own defence.”

8. In exercising this revisionary jurisdiction, this court looks out for irregularity or illegality of the proceedings. I have looked at the trial record and I find nothing irregular about the proceedings.
9. With respect to sentence, this court is guided by the principle that sentencing is the discretion of the trial court. See **Bernard Kimani Gacheru vs Republic (2002) eKLR.**

10. In this case I have looked at the circumstances of the case as borne in the mitigation submissions made in the trial court and in the probation officers' report, which I have already set out above. It is clear to me that the Applicant being a repeat offender deserved a custodial sentence. In fact she deserved a longer custodial sentence the basis of the impact of her offence on the community.
11. In her submission before this court, the Applicant stated that she was now remorseful and had learnt her lesson while in prison.
12. The State through the learned Prosecution Counsel submitted that it was not opposed to the revision of sentence.
13. I will temper justice with mercy and grant a non-custodial sentence. I order that the Applicant be

released from prison custody to serve the balance of her sentence on Community Service Order at the local chief's office under the supervision of the probation officer and the chief. The Applicant is further cautioned to abandon brewing and engage in other lawful socio-economic endeavours for her livelihood and that of her family.

Orders accordingly.

Ruling delivered, dated and signed at Chuka this 26th day of February, 2026.

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R. LAGAT - KORIR
JUDGE

Ruling delivered in the presence of Applicant acting in person, Ms Rukunga for the Republic; Muriuki (Court Assistant)