

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT CHUKA**  
**CRIMINAL REVISION NO. E121 OF 2025**

**AUGUSTINE MAWIRA NYAGA**

**.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**R U L I N G**

1. Augustine Mawira Nyaga (Applicant) was charged with two offences as follows:

- (i) Malicious damage to property contrary to section 339(i) of the Penal Code for which he was convicted and sentenced to serve 3 years' imprisonment.
- (ii) Threatening to kill contrary to section 223(i) of the Penal Code for which he was convicted and sentenced to serve 4 years' imprisonment.

2. The sentences were to run concurrently.
3. The victims of the offences were his parents whom he threatened to kill.
4. The Probation report filed on 16<sup>th</sup> October 2023 painted the Applicant as a person given to violence and who had caused the family and the community great pain as a result of his anti-social conduct. The report stated he was not suitable for a non-custodial sentence.
5. A sentence revision file was opened in respect of the Applicant on 9<sup>th</sup> April 2024. Upon considering the social inquiry report filed on 9<sup>th</sup> April 2024, the court (Gitari J.) found him unsuitable for a non-custodial sentence.
6. In the present revision, the Applicant's name was forwarded pursuant to a prison decongestion exercise. Upon reading the earlier Probation officer's report for suitability for revision, the court

after considering the youthful age of the convict, directed the Probation officer to engage the parents on their willingness to take him to rehabilitation owing to the convict's reported effects of alcohol and drug abuse. The Probation officer's report filed in court on 28<sup>th</sup> January 2026 stated that the parents though willing, no longer had financial capability having once spent Kshs.75,000 on the convict's rehabilitation which yielded no results as he soon relapsed.

7. The report also stated that the convict had not stated his willingness to serve a non-custodial sentence. The Probation officer however still recommended that he be released to serve Community Service Order at the Magutuni Police Station.

8. I have considered the circumstances of this case. I note particularly the sentiments of the family and

community that past attempts at rehabilitation had failed. I also take note that the Applicant himself did not wish to serve a non-custodial sentence. It is clear to me that the convict will benefit from prison rehabilitation. He is not suitable for a non-custodial sentence.

9. The revision is therefore rejected. The Applicant shall complete his prison sentence.

Orders accordingly.

**Ruling delivered, dated and signed at Chuka  
this 16<sup>th</sup> day of March, 2026.**

.....  
**R. LAGAT - KORIR**  
**JUDGE**

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