

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION NO. E385 OF 2025**

**IN THE MATTER OF ARTICLES 50(2)(P), 159(2)(d) & 165(6)(7) OF
THE CONSTITUTION OF KENYA 2010**

AND

**SECTIONS 362, 363, 364 & 365 OF THE CRIMINAL PROCEDURE
CODE**

AND

SECTION 223(1) OF THE PENAL CODE

JARED

MWAMBA.....

.....**APPLICANT**

VERSUS

REPUBLIC.....

RESPONDENT

**Coram: Before Justice R. Nyakundi
M/s Sidi Kirenge for the State**

RULING

1. Before this court is an application by the applicant seeking the following orders:
 - a. *That, this Honourable Court be pleased to call for, examine and revise the sentence passed by the trial court in Criminal Case No. E1293 of 2024, in which the Applicant was convicted of the offence of threatening to kill contrary to Section 223(1) of the Penal Code and sentenced to two (2) years imprisonment or a fine of Kshs. 50,000.*
 - b. *That I never appealed to the high court.*
 - c. *That Court be pleased to vary, review, substitute and/or set aside the remaining custodial sentence.*
 - d. *That, the Court be pleased to substitute the custodial sentence with a Probation Sentence or Community Service Order (CSO) or such other*

non-custodial order as the Court may deem just. In the alternative, the Court be pleased to consider time already served as sufficient punishment.

- e. *Any other or further orders the Court may deem fit to grant in the interest of justice.*
2. This application is based on the grounds:
 - a. That, the Applicant is a first offender, deserving leniency under sentencing principles.
 - b. That, the complainant, who is the Applicant's biological father, has fully forgiven the Applicant and has written to the court supporting for a sentence review.
 - c. That, the offence arose from a family misunderstanding, now fully resolved and settled.
 - d. That, the Applicant is remorseful, repentant, regretful, and has gained valuable rehabilitative insight.
 - e. That, the Applicant has undergone rehabilitation while in custody and is now fit for reintegration.
 - f. That, the sentence was imposed is harsh and excessive given the circumstances, contrary to proportionality principles.
 - g. That, this Court has jurisdiction under Sections 362-364 CPC to review the sentence to correct any impropriety or hardship.
 - h. That a non-custodial sentence will promote restorative justice, preserve family unity, and serve the broader objectives of sentencing
 3. In support of the application is the annexed affidavit of one Jared Mwamba who deponed as follows:
 - a. *That am the Applicant herein and therefore competent to swear this affidavit.*
 - b. *That I was convicted in Criminal Case No. E1293 of 2025 for the offence of threatening to kill contrary to Section 223(1) of the Penal Code.*

- c. *That, the trial court sentenced me to two (2) years imprisonment or a fine of Kshs 50.000.*
- d. *That I was a first offender, as confirmed by the prosecution during mitigation.*
- e. *That I am remorseful, repentant, regretful. and I deeply regret the incident which arose from a family disagreement.*
- f. *That, the complainant, who is my biological father, has forgiven me fully, and has written to court expressing that he harbors no ill-will and supports any relief this Court may grant*
- g. *That I have undergone rehabilitation, counselling, and positive behavioral change programmes in prison.*
- h. *That I am now fully reformed and unlikely to re-offend.*
- i. *That continued incarceration will strain family bonds which have already been restored through reconciliation.*
- j. *That I humbly ask this Honourable Court to review and substitute the remaining sentence with Probation or Community Service Order.*
- k. *That, the interests of justice, the Constitution and present circumstances favour a non-custodial sentence.*
- l. *That, the interest of justice the constitution and present circumstances favour a non-custodial sentence*

Order

- 4. The complainant be summoned to attend a status conference on Thursday 9.4.2026
- 5. It is so ordered.

**GIVEN UNDER MY HAND SEAL OF THIS COURT THIS 2ND DAY OF APRIL
2026**

.....

R. NYAKUNDI
JUDGE