

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT VOI

MISC. CRIMINAL APPLICATION NO. E030 OF 2025

PURITY

KARIMI.

.....**APPLICANT**

=VERSUS=

REPUBLIC.....

.....**RESPONDENT**

RULING

1. The Applicant was sentenced to ten (10) years imprisonment for the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. She appealed and the sentence was reduced to five (5) years.
3. The Applicant has been in custody since 26th April 2024 when she was first arraigned in court.
4. She is a young mother with 3 children one of whom is in custody with her.
5. The Applicant is now seeking review of her sentence in this application.

6. I have considered the Applicant's motion for sentence review, the Probation Officer's Sentence Review report, the Applicant's period in custody since 26th April 2024, and the unique circumstances of her three children, one of whom remains in custody with her, this court finds merit in the application for the following reasons.
7. While the Applicant has already benefited from a reduction of her sentence from ten years to five years on appeal, the jurisdiction of the High Court to revise its own sentence is not altogether foreclosed where new facts or exceptional humanitarian grounds emerge.
8. The best interests of the child, as enshrined in Article 53(2) of the Constitution of Kenya, is paramount in every matter concerning a child.
9. That constitutional provision commands that "a child's best interests are of paramount importance in every matter concerning the child."
10. The child residing with the Applicant in custody is not a convict but an innocent minor whose development, health, and psychological well-being are being compromised by the prison environment.

11. I find that the best interests of the child principle is a substantive right, not merely a guiding factor, and that all state organs, including the Judiciary, must give it real and meaningful effect.
12. Furthermore, the Probation Officer's report, which this court has considered, has assessed the Applicant's suitability for community-based rehabilitation.
13. Section 5 of the Probation of Offenders Act (Cap 64) empowers the court to make a probation order instead of a custodial sentence where it appears expedient to do so, having regard to the nature of the offence, the character of the offender, and any other circumstances of the case.
14. Probation is not a soft option but a rehabilitative tool intended to reintegrate offenders into society while allowing them to maintain family and community ties.
15. Further, a probation order may be made even after an offender has served part of a custodial sentence, provided the total period of probation does not exceed the remaining period of the original sentence.
16. The Applicant has served approximately two years of her five-year sentence, leaving three years.

17. This court finds that substituting the remaining custodial term with a probation order serves multiple lawful objectives, it protects the best interests of her three children by enabling them to be raised by their mother outside prison, it also reduces the risk of intergenerational criminality that often follows maternal incarceration.
18. Finally, it promotes the Applicant's rehabilitation and reintegration into her community, all of which are core sentencing objectives under the Sentencing Policy Guidelines, 2023 (paragraph 4.1).
19. The offence of manslaughter, while grave, lacks the element of malice aforethought that characterizes murder, and the Applicant is not shown to be a danger to the public.
20. Therefore, and in exercise of the inherent power of this court under Section 3 of the Criminal Procedure Code to make orders as may be necessary for the ends of justice, I hereby make the following orders;
 - (i) The Applicant's custodial sentence of five years imprisonment is hereby reviewed and set aside to the extent of the unserved portion.

- (ii) The Applicant shall be released from custody forthwith and placed on probation for the remainder of the original sentence, being a period of three (3) years, from today's date.
- (iii) The probation order shall be subject to conditions that the Applicant shall report to the Probation Officer at her nearest station as and when required.
- (iv) She shall not commit any offence during the probation period and she shall ensure that all three children are enrolled in school and properly cared for.

21. In the event of any breach of these conditions, the Applicant shall be brought back before this court for review, and the court may revoke the probation order and require her to serve the remainder of the custodial sentence.

22. Orders to issue accordingly.

Dated, signed and delivered this 28th day of April 2026 in open court at Voi High Court.

**ASENATH ONGERI
JUDGE**

In the presence of:-

Court Assistant: Millicent/Eghwa

Court Prosecutor:.....

The Applicant:

ORIGINAL