



**Makokha v Republic (Criminal Appeal E007 of 2025)
[2026] KEHC 6070 (KLR) (Crim) (4 May 2026) (Ruling)**

Neutral citation: [2026] KEHC 6070 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL APPEAL E007 OF 2025**

MW MUIGAI, J

MAY 4, 2026

BETWEEN

SOSPETER JUMA MAKOKHA APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The court delivered Judgment on appeal by Appellant on 25/11/2025 and the court orders were as follows: -
 1. These are misdemeanors sentences up to 3 years imprisonment and in light of mitigating factors stipulated in Sentencing Guidelines 2016, the Appellant may be considered for non-custodial sentence the remaining half through Community Service and or Probation if possible on condition Reports are availed the High Court is exercising through Court in revisionary powers on re-sentencing if the following conditions are met;
 2. In the upshot, I find that the Appeal is not successful with appropriate Orders suggested as follows:-
 3. The balance of the sentence may be served through Community Service Order subject to a report by the Probation Officer and the Prison facility on the accused progress on rehabilitation.
 4. These reports shall be filed in this Court for further Orders.
 5. Further mention on 18/12/2025 in court No. 1.
2. The court thereafter received and considered the following:-



1. Official communication from Ministry of Interior and National Administration State Department for Correctional Service Kenya Prisons Service dated/received on 20/4/2026.
2. The Prison Department confirmed the Appellant remains to serve up to 24/5/2026 to be released subject to good conduct and compliance with Prison Regulations.
3. The Pre-sentence was filed on 17/3/2026 on Applicant Altitude towards the offence, Altitude towards offence/victims, Prison Rehabilitation and Community Altitude towards the Applicant and the Appellant is recommended for non-custodial sentence

Applicant's Attitude Towards The Offence

The applicant reports that the period of incarceration has helped him develop a sense of responsibility and appreciation for lawful living. He expresses remorse for the offence committed and indicates his willingness to reintegrate into society as a law-abiding citizen if granted the opportunity

Attitude Of The Family Towards The Offender/offence

His family is willing and prepared to receive him upon release. His brother Peter confirms that the petitioner's share of the ancestral land bequeathed to him by their parents is intact, and that he will personally cater for his accommodation and basic needs. The family's plan is that, should the Court release him, he will initially reside with his eldest sister, Rachael Waithera, in Kitale while they construct a new house for him, as the previous one at the scene of the incident was demolished.

Prison Rehabilitation

The applicant indicates that the period of incarceration has given him an opportunity to reflect on his actions and the circumstances that led to the commission of the offence. During his stay in prison, he has maintained a good conduct and adhered to the institutional rules and regulations. He reports that he has participated in various rehabilitation programs offered within the correctional facility aimed at reforming offenders and equipping them with positive life skills. He is currently in charged of the Comprehensive Care Unit at the prison dispensary.

Views Of The Victim(s)

Attempts to obtain comments from the bank were unsuccessful. The current management team reported that they are new and not privy to the matter, and the teller involved has since left the institution.

Community's Attitude Towards The Applicant And The Offence

The incident occurred in the city and therefore many members of the Applicant's Community are not aware of the offence. However, he reports that the applicant comes from a well-known family in his location. The applicant grew up in the village and was known to be well behaved. He opines that he can benefit from a non-custodial sentence.

The social inquiry findings indicate that the offender comes from a stable and well-known family within his home village and has no previous conflict with the law. Although the offence occurred in the city and is therefore not widely known in his home area, the available information suggests that the offender has a supportive family background and retains positive ties within his community which could facilitate his rehabilitation and reintegration. Information obtained from his area chief portrays a person who was generally well-behaved while growing up in his community.



Recommendation

In view of the above findings, it is recommend that the Honuorable court takes into account the period already served as well as other mitigating factors and consider granting the applicant a non-custodial sentence

Ministry Of Interior – Kenya Prison Service

Taking into account the date of conviction and sentence, and factoring in statutory remission of eight (8) months (being one-third of the custodial term), the inmate's projected date of release is 24th May 2026, subject to continued good conduct and compliance with prison regulations. The court would have considered the Appellant for CSO but the time line is too short to make assesment assignment and placement.

4. Due to the positive Report by the various legal Justice System Department i.e Prison Authorities, Probation & Community, the Appellant is granted a chance of re-integration and reform.
5. He is hereby released from Prison custody forthwith to serve the remaining sentence on Probation/ Conditional Discharge the rest of the sentence is hereby suspended subject to maintenance of good conduct and no commission/involvement in any crime for the remaining period as provided by Section 35 of the Penal Code. In default he shall serve the remaining sentence forthwith.

RULING DELIVERED SIGNED & DATED IN OPEN COURT HIGH COURT CRIMINAL DIVISION-NAIROBI

ON 4/5/2026

M.W. MUIGAI

JUDGE

