



**Tanui v Republic (Miscellaneous Criminal Application
E017 of 2025) [2025] KEHC 11712 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11712 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
MISCELLANEOUS CRIMINAL APPLICATION E017 OF 2025**

**RB NGETICH, J
JULY 31, 2025**

BETWEEN

BETTY TANUI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Betty Tanui was charged with the offence of arson contrary to section 332(a) of the *Penal Code*. The particulars were that on 26th October 2023 at around 2300 hours, at Chepyuan village in Mogotio Sub-County within Baringo County, the applicant willfully and unlawfully set fire to a dwelling house valued at Kshs. 50,000, containing household items valued at Kshs. 109,000, all totaling Kshs. 159,000, the property of Sandra Chirchir.
2. The applicant pleaded guilty to the charge. She was convicted on her own plea of guilty and, on 22nd November 2023, sentenced to serve three years' imprisonment.
3. She now seeks a revision of her sentence to a non-custodial sentence, stating that on the material day, she quarreled with her niece who had come with alcoholic drinks. Due to the insults exchanged, she became angry and burned the house. She expresses deep remorse and regret, adding that she has since attended anger management counselling sessions such as Peace Creators, which have helped her control her anger and improve her relationships. She adds that her family-initiated reconciliation efforts, and the victim's family has since forgiven her and is willing to welcome her back into the community.
4. She states that she has served over two years of her sentence, with approximately five months remaining, and that she is a young mother of two children aged 12 and 10. She emphasizes that she has no prior criminal record and has now come to appreciate the value of freedom. She seeks the Court's forgiveness to allow her to return home and care for her children.



5. When the matter came before the Court on 9th June 2025, the applicant reiterated her plea for a non-custodial sentence, noting she had only five months of her sentence remaining.
6. The Court called for a social inquiry report, which was duly filed.

Social Inquiry Report

7. The report indicates that the applicant is the fifth born in a family of six. Her father, Wilson Chebet, is deceased. Her mother, Maria Kobilo, is a farmer on a two-acre piece of land in Chepyuan village.
8. The applicant attended Chepyuan Primary School up to Standard 7, after which she dropped out due to pregnancy in 2011. She later gave birth to a second child. She is a single mother of two children aged 11 and 9. The elder child stays with the father, while the younger lives with her grandmother.
9. The applicant admits committing the offence. She stated that the victim, her aunt, fled a police raid with 20 litres of chang'aa, which she brought to the applicant's home to continue selling. This angered the applicant, and a confrontation ensued. The victim returned to her own home with the alcohol, but the applicant followed and a fight broke out again. In anger, the applicant set the house on fire. She later fled to her cousin's house, where she spent the night before being arrested.
10. The victim, who is the applicant's aunt, has forgiven her and stated she has no objection to the applicant being considered for a non-custodial sentence. Her husband echoed this position, indicating the family had forgiven the applicant and supported her release.
11. The area administrator also had no objection to the applicant serving the remainder of her sentence outside prison, noting she had learnt her lesson and should desist from alcohol abuse.
12. While in prison, the applicant has been visited by family and significant others. She has learned skills in mat-making and embroidery, which she hopes to use to earn a living upon release.
13. The Probation Officer noted that no one opposes the applicant's request for sentence revision. In their view, she may be considered for a probation sentence for the remaining period, and, if granted, she will continue receiving guidance and counselling.

Determination

14. The applicant urges this Court to invoke its revisionary jurisdiction under Article 165(6) of the [Constitution](#) to vary the custodial sentence to a non-custodial one for the remaining period. She has now served over 2 years, and only 5 months remain.
15. I have considered the views of the victim and her family, the applicant's family, and the local administration. I take judicial notice that the victim is the applicant's aunt, and she has explicitly forgiven the applicant. None of those interviewed objected to the request for a non-custodial sentence. In the circumstances, the application for revision is hereby allowed.
16. Final Orders:-
The remaining sentence of the applicant is hereby revised to a probation sentence for the remainder of the term.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 31ST DAY OF JULY 2025.

.....

RACHEL NGETICH



JUDGE

In the presence of:-

CA Karanja

Ms. Omari for state

Applicant Present

