



**Juma v Republic (Criminal Revision E025 of 2025)
[2025] KEHC 12355 (KLR) (3 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12355 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E025 OF 2025
RN NYAKUNDI, J
SEPTEMBER 3, 2025**

BETWEEN

STEPHEN JUMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Stephen Juma was charged with stealing from the person of another, contrary to Section 279(a) of the Penal Code.
2. The brief facts of the particulars are that on the 7th day of December 2024 at Eldoret City in Turbo Sub-County within Uasin Gishu County, stole cash Ksh 12,300/= the property of Anipha Nanjala Wekesa from the person of the said Anipha Nanjala Wekesa.
3. The Applicant was found guilty, convicted and sentence to a fine of Ksh 50,000/= in default one year imprisonment. Being aggrieved with the sentence he approached this court to have it reviewed by exercising jurisdiction under Article 165 (6) (7) of the *Constitution* and Section 362 as read with 364 of the Criminal Procedure Code.

Decision

4. The guideline principles are as incorporated in the case of Court of Appeal in Benard Gacheru vs Republic [2002] eKLR has set out the strict scope in which to navigate the landscape of review:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial Court. Similarly, sentence must depend on the facts of each case. on appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material,



or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

5. Likewise, the persuasive case of *Markarian v The Queen* (2008) 10 Newcastle Law Review 135, 138 observed as follows:

“That the acceptance of the role of instinctive synthesis in the judicial sentencing process is not opposed to the concern for predictability and consistency in sentencing that underpins the rule of law and public confidence in the administration of criminal justice ... Judicial instinct does not operate in a vacuum of random selection. On the contrary, instinctive synthesis involves the exercise of a discretion controlled by judicial practice, appellate review, legislative indicators and public opinion. Statue, legal principle and community values all confine the scope in which instinct may operate.”

6. This record of the trial court has been reviewed in its entirety and as the law states an appeal’s court should only intervene to vary a sentence in court by the trial court if the sentence is demonstrably unfit. That is not the case here rendering the application moot. The application stands dismissed under Section 382 of the Criminal Procedure Code.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET THIS 3RD DAY OF SEPTEMBER 2025.

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R. NYAKUNDI

JUDGE

M/s Sidi Kirenge for the State

