



REPUBLIC OF KENYA



**Masiko alias Nicodemus Misiko v Republic (Criminal Revision  
E112 of 2024) [2024] KEHC 5211 (KLR) (29 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 5211 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E112 OF 2024  
RN NYAKUNDI, J  
APRIL 29, 2024**

**BETWEEN**

**NICHOLUS MASIKO ALIAS NICODEMUS MISIKO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being An Application For Revision of Sentence In Criminal Case No.  
E090 of 2024 Before Hon. B.areri (SPM) Dated 19Th January 2024.)*

**RULING**

Coram: Before Justice R. Nyakundi

Mr. Mugun for the State

1. The applicant was charged, tried, convicted and sentenced to twelve months imprisonment for the offence of selling of alcoholic drinks without a license contrary to section 8(1)(b) as read with section 64 of *Uasin Gishu County Drinks Control Act* of 2014.
2. A Probation Service Sentence Review Report dated 21<sup>st</sup> March 2024 was filed on 24<sup>th</sup> April 2024. One of the key highlights of my determination flows from the recommendation from the probation report contextualized in the following language “He has a fixed place of abode because we were in a position to trace the family member who is the wife and is willing to welcome him back home. He is a first time offender and has a mental problem and ... from our inquiry findings, we therefore find Nicholus to be suitable for a non-custodial sentence for the remaining period of time”
3. The accused, as further averred by the Probation Officer, is remorseful and prays for a non-custodial sentence. The purpose of any correctional system ought to consider carefully the aspect of rehabilitation and in view of the foregoing, I am persuaded by the Probation officer’s report that this



a fit case for a non-custodial sentence in so far as the balance of the custodial sentence already served is concerned, as imposed by the trial court.

4. As a consequence, the sentence stands reviewed by this Court for the applicant to serve the remainder of his 6 months sentence on probation at Huruma sub-county hospital. This being a supervisory jurisdiction imposed upon the Probation officer, periodical reports on the performance of the applicant shall be submitted to the Court after the first three months and at the end of the probation period for compliance with the Probation order.

**GIVEN UNDER MY HAND AND SEAL THIS 29TH DAY OF APRIL 2024.**

.....

**R.NYAKUNDI**

**JUDGE**

