



REPUBLIC OF KENYA



**Koskey v Republic (Criminal Revision E051 of 2023)
[2023] KEHC 23815 (KLR) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23815 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E051 OF 2023
JK SERGON, J
OCTOBER 19, 2023**

BETWEEN

GEOFFREY KIPGENO KOSKEY APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Geoffrey Kipgeno Koskey, hereinafter referred to as the Applicant was convicted of the offence of incest contrary to section 20 (1) of the *Sexual Offences Act* No. 3 of 2006
2. On 25th May, 2018, Hon. E.W. Karani, the then Learned Resident Magistrate sentenced the Applicant to serve ten (10) years imprisonment.
3. The proceedings relating to the aforesaid case, that is Kericho CM S.O Case No. 10 of 2018 Republic-vs- Geoffrey Kipgeno Koskey were placed before this Court pursuant to the provisions of section 362 and 364 of the *Criminal Procedure Code*.
4. The Probation Officer filed a sentence review report on 19th July, 2023. In the said report it was noted that the home environment was favourable for his release. The family had forgiven the Applicant and was ready and willing to receive him back. The local administration and the community was receptive towards a non-custodial sentence. The prison authorities were of the view that the applicant had reformed and were in support of a non-custodial sentence so that he could be rehabilitated and reintegrated into society accordingly. The probation officer therefore recommended that the applicant completes the remaining term of his sentence on Community Service Order (CSO).
5. The Applicant has so far served five (5) years and two (2) months and is remaining with four (4) years and Eight (8) months to complete his sentence. It is apparent that the Applicant was sentenced to serve the minimum mandatory sentence. Such sentences were declared unconstitutional in the Case of *Philip Mueke & 5 Others -vs- DPP and Another*.



6. In the circumstances, this Court is entitled to interfere with the sentence in exercise of its revisionary power. Consequently, I hereby set aside the sentence of ten (10) years and substitute it with a sentence of eight (8) years to run from the date of sentence i.e. 25th May, 2018. It is apparent therefore that the Applicant has so far served five (5) years two (2) months and the applicant is remaining with two (2) years eight (8) months to complete his sentence.
7. I hereby order that the applicant namely:- Geoffrey Kipngeno Koskey be set free from prison and ordered to serve the remainder of his term i.e. two (2) years eight (8) months under Community Service Order (CSO) at Kiptere Assistant Chief's Office under the supervision of David Kipkirui, the Area Assistant Chief.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF OCTOBER, 2023.

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J.K. SERGON

JUDGE

