

TANZANIA / JUDGMENT

george wambura nyangare sura vs the republic 2023 tzhc 21994 21 october 2023

COURT
TZHCDECIDED
21 October 2023

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THE UNITED REPUBLIC OF TANZANIA (JUDICIARY) THE HIGH COURT (MUSOMA SUB
REGISTRY) ATTARIME CRIMINAL SESSIONS CASE No. 122 OF 2022 IN THE MATTER OF AN
APPLICATION FOR COMMUNITY SERVICES ORDER [Made under section 3 (1) (a) Community
Service Act [Cap. 291 R.E. 2002] GEORGE WAMBURA NYANGARE @ SURA..... APPLICANT
Versus THE REPUBLIC..... RESPONDENT

RULING

21.10.2023 & 21.10.2023 Mtulya, J.: In the present application, George Wambura Nyangare @ Sura (the applicant) was arraigned in this court for allegation of acts intended to cause grievous harm (the offence) contrary to section 222 (a) of the Penal Code [Cap 16. R.E. 2019] (the Penal Code) and was found guilty to the offence. Finally, this court had sentenced him to six (6) months imprisonment. The applicant appeared today in this court praying for an order to substitute her remaining custodial sentence in favor of community services. The applicant contended that he is a person of good character and has a family which depends on him and has learnt a lot in prison custody. The move was supported by Mr. i Davis Katesigwa, learned State Attorney for the Republic and Ms. Joyce Rwegalula, Social Welfare Officer, from the Probation and Community Services Department in Mara Region. According to Mr. Katesigwa, the application meets the standards set in section 339A of the Criminal Procedure Act [Cap. 20 R.E. 2019] (the Act), whereas Ms. Rwegalula cited section 3 (1) of the Community Service Act [Cap. 291 R.E. 2002] (the Community Services Act) stating that she had followed all necessary steps and found the applicant is not a threat to Kisumwa Village and the communities at the village are ready to welcome him. In order to substantiate her submission, Ms. Rwegalula registered a Prisoner Social Inquiry Report (the report). I have perused the report and found a treatment plan and recommendation of Ms. Rwegalula. The treatment plan shows that the applicant shall report and perform unpaid public work at Kisumwa Dispensary from 08:00 hours to 12:00 hours and will be * regularly visited by a Community Services Officer for supervision and counselling purposes. Regarding recommendations, Ms. Rwegalula recorded that: the applicant may be granted non custodial sentence under the Community Services Department for the remaining part of his sentence. Concerning reasons in favor of 2 the recommendations, Ms. Rwegalula recorded in the report that: the applicant is not threat to the society, he has fixed abode, reliable sureties, family

which depends on him for their livelihood, and there is a work placement at Kisumwa Dispensary. I have scanned section 339A of the Act, section 3 (1) (a) of the Community Services Act, and Regulation 18 (2) of the Community Service Regulations, GN, No. 87 of 2004 (the Regulations) and considered the report admitted in the present application and noted that the instant move will save costs of the Government and assist applicant's family dependents, I think the application may be granted. However, in order to cherish the order, the applicant must register at least a reliable surety, who is citizen of the United Republic of Tanzania as part of implementing section 3(1) (a) of the Community Service Act, and comply with all laws of the land, and in default of the same, section 38 (3) of the Penal Code shall take its course. Order accordingly. Judge 21.10.2023 3 This Ruling was delivered in Chambers under Seal of this court in the presence of the applicant, Mr. George Wambura Nyangare @ Sura and in the presence of learned State Attorney, Mr. Davis Katesigwa for the Republic and in the presence of the Social Welfare Officer, Ms. Joyce Rwegalula for the Probation and Community Services Department of Mara Region. 21.10.2023 4

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