



**Aden v Republic (Criminal Revision E409 of 2024)
[2024] KEHC 16427 (KLR) (23 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16427 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E409 OF 2024
RN NYAKUNDI, J
DECEMBER 23, 2024**

BETWEEN

ISSA ADEN APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of stealing contrary to section 268 (1) as read with section 275 of the Penal Code. The particulars of the offence are that on 1th June, 2024, at Members area in Turbo Sub-County within Uasin Gishu County, the applicant entered Mashallah fire extinguisher shop and stole one mobile phone make Tecno Pova Neon valued at Kshs 17,000/= the property of Diana Mukhwana.
2. The applicant pleaded guilty to the offence and as a consequence he was sentenced to a fine of Kshs 10,000/= in default serve 6 months in prison.
3. The applicant has approached this court pursuant to sections 357, 362, 364 & 382 of the Criminal Procedure Code as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6)(a) & (b) of the Constitution.
4. The applicant seeks a sentence review. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
 - a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
 - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
 - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.



- d) Protection of the community: - where the offender is likely to pose a threat to the community.
 - e) Offender's responsibility to third parties: - where there are people depending on the offender.
5. I have considered the offence in question and the aggravating factors. The sentencing objectives in Kenya have been captured in the Sentencing guidelines 2023 to be the following: -
- i. Retribution: to punish the offender for his/her criminal conduct in a just manner.
 - ii. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
 - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
 - v. Community protection: to protect the community by incapacitating the offender.
 - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation: To mend the relationship between the offender, the victim and the community.
 - viii. Reintegration: To facilitate the re-entry of the offender into the society.
6. Upon thorough examination of the totality of circumstances and the core principles of sentencing, I am convinced that the period already served in custody adequately meets the punitive and deterrent objectives in this matter. The applicant's period of incarceration has sufficiently addressed the gravity of this offense.
7. I therefore revise the sentence to the period already served in custody, which I deem complete and sufficient. The applicant, having served this period, is hereby discharged. This concludes all obligations related to this matter, and the applicant is free to go with no further conditions or supervision requirements.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 23RD DAY OF DECEMBER 2024.

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R. NYAKUNDI

JUDGE

