



**Njenga v Republic (Revision Case E179 of 2023)
[2023] KEHC 3474 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3474 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E179 OF 2023**

HM NYAGA, J

APRIL 27, 2023

BETWEEN

MARTIN NJENGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant, Martin Njenga was convicted on his own plea of guilty for the offence of Sabotage contrary to Section 343 and Stealing things forming part of the Railways contrary to Sections 343 and 179 (d) of the *Penal Code* respectively. The total value of the damaged and stolen property being ninety-five (95) Pandrol clips is Kshs 16,910/=.
2. In the Sentence Review Report filed on March 13, 2023, the Probation Officer, Elizabeth Kwamboka recommends community service.
3. According to the said Sentence report, the convict has been engaging in environmental management within the facility while serving his sentence. His family, relatives and local administration are willing to receive him back to the community. He is remorseful and pleads for leniency.
4. With a view to decongest prison, I am of the view that this Court should invoke its unfettered discretion. If the sentence imposed by the trial court was meant to teach him a lesson, I think that the time spent in custody so far is sufficient for that purpose.
5. I therefore order that the Convict/Applicant be released from prison forthwith and be placed on Community Service at Naishi Chief's Office for the remaining period of his sentence. He shall be closely supervised by the Chief, Naishi Central location who shall ensure the convict religiously performs any assigned community service to his satisfaction and weekly reports made to the Probation Officer, Nakuru who shall monitor the behaviour of the convict for the remainder of the sentence.



6. The applicant is, as required, made aware that in the event of a breach, the CSO order shall be revoked and he shall be committed back to prison to serve the entire prison term imposed and not served.
7. File closed.

DATED, SIGNED & DELIVERED AT NAKURU THIS 27TH DAY OF APRIL, 2023.

H. M. NYAGA

JUDGE

In the presence of:

C/A Jeniffer

Ms Murunga for state

Applicant (At Rumuruti)

