



**Ochieng Alias Delvin v Republic (Criminal Revision E161 of 2022)  
[2023] KEHC 18268 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 18268 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E161 OF 2022  
RE ABURILI, J  
APRIL 27, 2023**

**BETWEEN**

**SARAH AWINO OCHIENG ALIAS DELVIN ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This is a request for sentence review which I have considered. The applicant Sarah Awino Ochieng alias Delvin was convicted of the offence of stealing contrary to section 268(1) as read with section 275 of the *Penal Code*.
2. She was convicted and sentenced to pay a fine of Kshs.20,000/= or in default, to serve one (1) year imprisonment.
3. This was on 9<sup>th</sup> December 2022 by Winam Senior Principal Magistrate's Court Criminal Case No. E1032 of 2021. The value of the stolen cash is Kshs.179,000/= from an Mpesa shop.
4. The accused denied the offence and the case proceeded to hearing on merit.
5. The amount of money lost was by no means substantial. The accused at one time sought for an out of court settlement which never materialized. A fine of Kshs.20,000/= was lenient considering the amount of money lost.
6. In my view, the accused deserves a harsher sentence. However, she was a first offender and in her mitigation, she stated that he had a young child. The trial court did not order for a Presentence Report to rule out the suitability of the accused for a non-custodial sentence.
7. The accused has already served nearly five (5) months of the one (1) year imprisonment.



8. In the spirit of prison decongestion, I hereby order that the Convict Sarah Awino Ochieng alias Delvin shall be released from prison to serve Community Service for three (3) months at Winam Law Courts, under the supervision of the Probation Officer, Winam.
9. Signal to issue
10. File closed. I so order.

**Dated, Signed and Delivered at Kisumu this 27th Day of April, 2023**

**R. E. ABURILI**

**JUDGE**

