



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
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**Ondiek alias Sabuni v Republic (Criminal Revision E022 of 2023)  
[2023] KEHC 19845 (KLR) (29 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19845 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL REVISION E022 OF 2023  
WA OKWANY, J  
JUNE 29, 2023**

**BETWEEN**

**AMOS MOMANYI ONDIEK ALIAS SABUNI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original Conviction and Sentence in Criminal Case No. E278  
of 2023 by Hon. W. Chepseba, Chief Magistrate on 5th May 2023)*

**RULING**

1. The Applicant was charged with the offence of burglary contrary to section 304 (2) and stealing contrary to section 275 of the *Penal Code*. The particulars of the offence were that on March 4, 2023, at Mageri sub-location in Nyamira North Sub-County within Nyamira County broke and entered the dwelling house of Josphine Nyaswabu with intent to steal and did steal from therein one and a half sacks of maize, the property of the said Josphine Nyaswabu all valued at Kshs 7,200/=. A second charge of handling stolen property contrary to section 322 (1) (2) of the Penal Code was also brought against. Particulars were that on March 4, 2023 at Mageri sub-location in Nyamira North sub-county within Nyamira County, otherwise than in the course of stealing, dishonestly received or retained one and a half sacks of maize, knowing or having reasons to believe to be stolen goods. The third count was assault causing actual bodily harm contrary to section 251 of the Penal Code. Particulars were that on March 4, 2023 at Mageri sub-location in Nyamira North sub-County within Nyamira County assaulted Sabasatian Ombeta Choma thereby causing him actual bodily harm.
2. The trial court convicted the Applicant on the three charges and sentenced him to serve 1 year imprisonment for the first charge. 6 months for the second charge and 1 year imprisonment for the third charge. The Applicant has been in custody for 38 days.



3. The Sentence Review Report filed on June 13, 2023 by the Probation Officer Dickson Kairu recommends a non-custodial sentence. I hereby direct that the Applicant serves a Community Service Order at the Nyangoso Primary School under the supervision of the School Headmaster for the remaining part of the sentence meted by the trial court.

**Orders accordingly.**

**DATED AND DELIVERED AT NYAMIRA ON THIS 29<sup>TH</sup> DAY OF JUNE 2023.**

**W.A. OKWANY**

**JUDGE**

