



REPUBLIC OF KENYA



KENYA LAW
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**Omar v Republic (Criminal Revision E042 of 2023)
[2023] KEHC 27102 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E042 OF 2023
JK SERGON, J
DECEMBER 20, 2023**

BETWEEN

SALIM KIPKOECH OMAR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Salim Kipkoech Omar, hereinafter referred to as the Applicant was convicted of the offence of stealing contrary to section 268 (1) as read with section 275 of the [Penal Code](#) CAP 63 Laws of Kenya.
2. On 18th October, 2022, Hon. B.R. Kipyegon, the Learned Principal Magistrate sentenced the Applicant to serve three (3) years imprisonment.
3. The proceedings relating to the aforesaid case, that is Kericho CMC Case No. E2348 of 2022 Republic-vs-Salim Kipkoech Omar were placed before this Court pursuant to the provisions of section 362 and 364 of the [Criminal Procedure Code](#) CAP 75 Laws of Kenya.
4. The probation officer filed a sentence review report on 20th November, 2023. In the said report it was noted that the applicant is serving another sentence imposed in Kericho CM's Criminal Case No. E2347 of 2022. In the previous case, the applicant was convicted of a similar offence and sentenced on 20th April, 2023. He committed the subsequent offence while undergoing trial for the instant offence.
5. The probation officer deemed him a habitual offender. The probation officer noted that the applicant was willing to abide with the terms and conditions for a non-custodial sentence, however, he did not qualify for sentence review in the instant file as he is serving another sentence for a similar offence.
6. The probation officer therefore recommended that the applicant did not qualify to benefit from a sentence review as he is currently serving another sentence of five (5) years for a similar offence in Criminal Case No. E2347 of 2022.



7. I have already stated that the sentence pronounced by the Learned Principal Magistrate. The Applicant has so far served one (1) year, two (2) months and is remaining with one (1) year, ten (10) months to complete his sentence.
8. Having considered the fact that the sentence review report is unfavourable, the instant application for sentence review is hereby dismissed. This court will not interfere with the sentence meted out by the trial court. The applicant to serve the remaining term of his sentence while in custody.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF DECEMBER, 2023.

J.K. SERGON

JUDGE

