



REPUBLIC OF KENYA



**Andai v Republic (Criminal Revision E049 of 2022)  
[2022] KEHC 12819 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12819 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E049 OF 2022  
RE ABURILI, J  
AUGUST 8, 2022**

**BETWEEN**

**GEOFFREY ODENYO ANDAI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application seeking sentence review, arising from conviction  
and sentence by Hon. S.W. Mathenge, Resident Magistrate on 7/4/2022  
in Bondo PM Magistrates' Court Criminal Case No. E154 of 2021)*

**RULING**

1. From the Sentence Review Report filed on 2/8/2022, the convict left his home in Kakamega County many years ago, relocated to Busia County and finally, he settled in Usenge Market where he carries out fishing activities.
2. Although the Report states that the convict's permanent residence is not clear, it is obvious that he ordinarily resides in Usenge where he ekes a living and where he is willing to perform community service, given an opportunity. This country called Kenya is big and a person can reside anywhere.
3. The applicant was convicted and sentenced for the offence of entering a dwelling house with intent to commit a felony contrary to Section 305(1) of the *Penal Code* and the alternative charge of handling suspected property contrary to Section 322(2) of the *Penal Code*.
4. The convict is remorseful. The victim is unforgiving. However, the stolen items were recovered.
5. I find that the convict can benefit from alternatives to imprisonment in view of the short sentence imposed. He has already served 4 months imprisonment of the one year.
6. In the spirit of prison decongestion, I hereby order that the convict Geoffrey Odenyo Andai shall be released forthwith to serve unpaid community service at Usenge Police Station for the remainder of



the prison term, under close supervision of the Officer Commanding Station (OCS), Usenge Police Station and in case of breach, he shall be returned to court for cancellation of the CSO order for the prison term to revert from the date of this order.

7. I so order.

8. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF AUGUST, 2022**

**R.E. ABURILI**

**JUDGE**

