



REPUBLIC OF KENYA



KENYA LAW
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**Ongala v Republic (Criminal Revision E038 of 2022)
[2022] KEHC 12827 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12827 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E038 OF 2022
RE ABURILI, J
AUGUST 8, 2022**

BETWEEN

BRIAN OTIENO ONGALA APPLICANT

AND

REPUBLIC RESPONDENT

*((Being an Application seeking sentence review, arising from conviction
and sentence in Bondo PM Magistrates' Court Criminal Case No.
E046/2022 by Hon. J.P. Nandi, Principal Magistrate on 5/4/2022))*

RULING

1. The convict Brian Otieno Ongala was convicted on his own plea of guilty for the offence of Stealing contrary to Section 268 as read with Section 275 of the Penal Code and sentenced to serve two (2) years imprisonment on 22/3/2022. He has served about 4 months in prison. The value of the stolen property being an engine for a boat is Kshs. 190,000/=.
2. The Presentence report was negative on the convict being given non-custodial sentence because he is a perennial thief and that his family and the community was unwilling to accommodate him for being a perennial thief.
3. In the Sentence Review Report filed on 2/8/2022, the same Probation Officer Leakey Lugalia recommends community service.
4. I have considered the two reports.
5. The convict is a young man who is 23 years, healthy and energetic. He has been in prison for 4 months. He seeks for leniency and promises to change his behaviour. The prison authorities are positive about his behaviour change. He is willing to perform unpaid community service.



6. In the spirit of prison decongestion, I hereby order that the convict Brian Otieno Ongala shall be released from prison forthwith and placed on unpaid community service at Utonga Chief's Camp for 12 months. He shall be closely supervised by the Chief, Utonga location who shall ensure the convict faithfully performs any assigned community service to his satisfaction and weekly reports made to the Probation Officer, Bondo who shall monitor the behaviour of the convict for the next 12 months and in the event of breach, the CSO order shall be recalled and cancelled and the convict returned to prison to serve the entire prison term imposed and not served.
7. File closed.
8. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 8TH DAY OF AUGUST, 2022

R.E. ABURILI

JUDGE

