



REPUBLIC OF KENYA



**Opiata v Republic (Criminal Revision E042 of 2022)
[2022] KEHC 12829 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12829 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E042 OF 2022
RE ABURILI, J
AUGUST 8, 2022**

BETWEEN

JOSEPH OTIENO OPIATA APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application seeking review of sentence, arising from conviction
and sentence by Hon. S.W. Mathenge, Resident Magistrate on 6/4/2022
in Bondo PM Magistrates' Court Criminal Case No. 206 of 2022)*

RULING

1. From the Sentence Review Report filed, the convict Joseph Otieno Opiata aged 50 years old is a well-seasoned changaa brewer. It is therefore not surprising that he had to be arrested and charged with the offences of manufacturing alcoholic drinks - changaa and being in possession of the same. It is claimed that he has been in the business for over 20 years. Surprisingly, the local Administration are his neighbours but have never before discouraged him from being a law breaker.
2. The sentences of 12 months imprisonment imposed on him on 26/4/2022 to run concurrently are legal and lenient sentences. However, the convict has a family that depends on him. His children are in college. He therefore has responsibilities to third parties. He can however educate them through lawful means of raising income, not by brewing changaa.
3. He is said to be remorseful and ready to abandon his illegal trade. He has served 4 months of the 12 months imprisonment.
4. At his age of 51 years, the convict has learnt his lessons in prison as he is said to be of poor health.
5. In the spirit of prison decongestion, I order that the convict Joseph Otieno Opiata shall forthwith be released from prison to serve the remainder of the prison term on suspended sentence and to be



reporting to Aram Police Station once every month on Fridays until completion of sentence, and not to reoffend for the next nine (9) months from the date of his release from prison.

6. I so order.

7. File closed.

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

R.E. ABURILI

JUDGE

