



REPUBLIC OF KENYA



**Otieno v Republic (Criminal Revision E012 of 2022)
[2022] KEHC 12831 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12831 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E012 OF 2022
RE ABURILI, J
AUGUST 8, 2022**

BETWEEN

FRANCIS OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for revision of sentence, arising from conviction
and sentence in Ukwala PM's Court in Criminal Case No. 288 of/2021
on 16/6/2021 by Hon. C.I. Agutu, Senior Resident Magistrate)*

RULING

1. The convict is Francis Otieno. He was convicted and sentenced to serve two (2) years imprisonment on 16/6/2022 by Hon. C.I. Agutu, Senior Resident Magistrate, Ukwala Law Courts for the offence of Stealing from a person contrary to section 279(a) of the [Penal Code](#) and handling stolen property contrary to Section 322(1)(2) of the [Penal Code](#).
2. He pleaded guilty to the charge and in mitigation, he stated that he was an orphan. The property stolen was a Dlight torch and a memory card as well as Xbass Radio all valued at Kshs. 5,000/=, property of Antony Okello.
3. The court also received a Probation Report which showed that the convict is a habitual offender and that among other offences he admitted to being charged with defilement but discharged by the court after the complainant failed to attend court.
4. That he breaks into people's homesteads in the village hence he needed rehabilitation. There were threats of slaying him if he returned to the community. He is 22 years old and a Class Eight drop out. He also dropped out of a vocational school sponsored by his uncle. He was found unsuitable for non-custodial sentence. This was in June 2021. He has not appealed.



5. The Probation Officer has filed Sentence Review Report showing that the convict has now served one year in prison. He used to perform casual jobs prior to his conviction. His parents are separated and his father is bedridden and requests the convict be released to go and help him. The convict is said to be remorseful and is recommended for CSO at Raduodi Primary School.
6. I have considered the above. I order that the convict Francis Otieno shall be released from prison forthwith to serve unpaid community service at Raduodi Primary School and not to reoffend, for 9 months. He shall abide by the CSO conditions in default, he shall be returned to prison to complete the custodial sentence. He shall also be reporting to the Probation Officer, Ugunja on every Friday once a month. The Headteacher, Raduodi Primary School shall ensure close supervision of the convict and report to the Probation Officer at Ugunja.
7. I so order.
8. File closed.

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

R.E. ABURILI

JUDGE

