



REPUBLIC OF KENYA



**KENYA LAW**  
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**Owino v Republic (Criminal Revision E035 of 2022)  
[2022] KEHC 12814 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12814 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E035 OF 2022  
RE ABURILI, J  
AUGUST 8, 2022**

**BETWEEN**

**SAMSON OWINO ..... 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 Samson Owino was convicted on his own plea of guilty on three counts. Count one was stealing contrary to section 268 of the [Penal Code](#) as read with section 275 of the [Penal Code](#). Counts two and three are of assault causing actual bodily harm contrary to section 251 of the [Penal Code](#). He was sentenced to serve 12 months imprisonment on each count, sentences to run concurrently. This was on 11/2/2022. He has served about 6 months of the 3 years prison term.
2. The initial presentence report did not recommend non-custodial sentence on account that the convict was a notorious thief and therefore the community did not want to see him.
3. I have considered the sentence review report. The convict stole one cock valued at Kshs 1,000/= and also assaulted the 2 people who accosted him when they found him leaving the 1<sup>st</sup> complainant's kitchen while carrying the cock. The complainants sustained injuries classified as harm. The cock was recovered.
4. The convict is willing to serve non-custodial sentence and pleads for the mercy of the court. In my view, the convict has learnt his lessons in prison for the 6 months that he has been behind bars. The convict is not a young man. At 42 years old, he knows what is right and wrong.



5. I make the following orders:
- a. Count 1 on stealing of a cock, the sentence of 12 months imprisonment is hereby set aside and substituted with suspended sentence for 6 months as the stolen cock was recovered.
  - b. For counts 2 and 3, the consecutive sentences of 2 years imprisonment combined are hereby set aside and substituted with a concurrent sentence which is also hereby set aside and substituted with an order that the convict Samson Owino shall be released from prison forthwith and placed on probation for one year to be closely supervised and counselled by the probation officer, Bondo and cautioned against breach of any probationary terms or reoffending.
6. 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**

