



REPUBLIC OF KENYA



**KENYA LAW**  
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**Owino v Republic (Criminal Revision E054 of 2022)  
[2022] KEHC 15671 (KLR) (28 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15671 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E054 OF 2022  
RE ABURILI, J  
NOVEMBER 28, 2022**

**BETWEEN**

**MARGARET ATIENO OWINO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for sentence revision against sentence by Hon. M.O. Wambani,  
Chief Magistrate on 23.11.2022 at Siaya CM's Court in Criminal Case No. E392 of 2022)*

**RULING**

1. I have considered the application dated November 28, 2022 under certificate of urgency. I certify the same as urgent.
2. On request for sentence revision, I find that the sentence imposed on the convict on her own plea of guilty is lawful and lenient. However, the convict being a first offender as per the address by the prosecution, the court should have called for a probation officer's report to appreciate the social circumstances of the convict who appears to be engaged in heavy manufacturing of illicit brew and which breeds other serious offences.
3. The convict has annexed a letter from the assistant chief central alego sub location stating that she is a widow and sole caregiver for her two orphaned grandchildren who are engaged in class 8 and class 6 national examinations. It appears that the convict has been engaged in this illicit business for a while because one cannot just start brewing over 100 litres of illicit brew and become a first offender. It also appears that the local administration has been covering her up and the law enforcement agencies finally caught up with her. She is however unable to raise the kshs 50,000/= fine imposed on her because of her social status.
4. Nonetheless, I am of the view that this is a case suitable for non-custodial sentence.



5. I hereby revise the sentence of a fine of kshs 50,000 imposed on the convict in default 180 days prison term and substitute the same with an order that the convict shall serve on probation for a period of one year from date of release and should she reoffend, she shall be arrested and returned to prison to complete the sentence.

6. I so order.

**DATED, SIGNED AND DELIVERED AT SIAYA, THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2022.**

**R.E. ABURILI**

**JUDGE**

