

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION CASE NO. E026 OF 2021

CORNEL OKETCH OCHIENG.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision Application from the judgment, conviction and sentence in UKWALA SRM'S MAGISTRATES COURT NO. 565 OF 2016 by HON. G. Adhiambo S.R.M., on 2.3.2017 and SIAYA CR A NO. 27, 28 and 30 of 2017, BY HON. R.E.ABURILI J dated 27th August, 2018)

RULING

1. The Convict **Cornel Okoth Ochieng** was convicted of the **offences of Arson and assault** and sentenced to serve seven years imprisonment in count 1 and in count 2 to pay a fine of KShs.20,000 in default to serve 4 months imprisonment, sentences to run consecutively.
2. He filed an appeal before this court vide HCRA 28 of 2017 which appeal was compromised in that he withdrew the challenge against conviction and only urged the court to consider sentence. The court did consider sentence and vide judgment delivered on 27.8.2018, this court upheld the sentence imposed.
3. The Convict now wants that sentence reviewed further by this same court. Punishment for arson is up to life imprisonment. The trial court meted out lawful lenient prison term and fine which this court upheld.
4. That being the case, that sentence is not subject to further review by this court as it does not fall within the definition of **Section 3(1) of the Community Service Orders Act**. To do otherwise will be tantamount to this court sitting on its own appeal.
5. Accordingly, this court is inclined to find that the request for sentence review lacks any legal basis. The same is hereby declined and dismissed.
6. File closed.
7. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 30TH DAY OF JUNE, 2021

R. E. ABURILI

JUDGE