

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION CASE NO. E077 OF 2021

ENOCK OWINO ODIMO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Application for sentence revision from the judgment, conviction

and sentence in Ukwala Srm's Magistrates Court No. 147 of 2019

delivered on 12.4.2019 by Hon. G.Adhiambo – Principal Magistrate)

RULING

1. The applicant Enock Owino Odimo was the 2nd accused in the lower court. He was jointly charged with another for the offences of **Burglary and Stealing**. They both pleaded guilty to the charges and were convicted on their plea of guilty by Hon. G. Adhiambo, Principal Magistrate on 12.4.2019. They were sentenced to serve three years imprisonment on each limb, sentences to run consecutively thus, six years imprisonment.
2. They have not appealed and the file is before me for prison decongestion seeking for revision of sentence. I have perused the trial court record. The plea was unequivocal. Sentence was lawful and lenient.
3. Albeit the Probation Officer Mr. David Ojow recommends Community Service Order for the remaining sentence of about four years, I am not bound by that recommendation which is illegal in the sense that the convict was not charged with an offence whose sentence would have been up to three years and below, as contemplated in **Section 3(1) of the Community Service Orders Act**.
4. Accordingly, I find this application devoid of merit. The same is dismissed.
5. File closed.
6. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 25TH DAY OF JUNE, 2021

R. E. ABURILI

JUDGE