

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION CASE NO. E042 OF 2021

GABRIEL AKUOM OTIENO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision Application for sentence revision in BONDO PM'S MAGISTRATES COURT Cr Case No. 892 OF 2019 passed on 15.12.2020 by Hon. S. Mathenge – Resident Magistrate)

RULING

1. The Convict **Gabriel Akuom Otieno** was convicted of the offence of **Breaking and Committing a Felony Contrary Section 306 of the Penal Code** and sentenced to serve 1 year Imprisonment on 15.12.2020. He has now served 6 months of the one year Imprisonment. He committed the Offence at Wagoro Primary School – a Public School, Stealing so many items mainly learners and teachers digital devices as listed in the charge sheet. Before he was sentenced, the convict had been in prison for a period of one year. He was a first offender. He had denied the offence hence the trial was fully conducted. His co-accused a minor was placed on Probation for one year after pleading guilty to the charge. He claimed that the Convict herein send to him – the minor to go and steal the computers from the Minor's School and that upon sale, he would share the proceeds with the minor who was a class 6 pupil.

2. The devices stolen were valued at KShs.720,000/= and most of the tablets were not recovered as they were stolen on different occasions hence the accused had the opportunity to dispose them off. The offender used a minor school child to steal school property meant to aid learning. He deserved a harsher sentence as the maximum sentence is seven years imprisonment upon conviction.

3. The Convict has been in prison from 15.12.2020 and although he did not raise bail pending trial, he has only 2 months to complete sentence. The Probation Report is convoluted. It says the Offender will complete seven years imprisonment on 15.8.2022 which is erroneous. The Offender was sentenced to serve one year imprisonment on 15.12.2020. He is aged 24 years. As he was in remand custody for 1 year and is said to have been rehabilitated in Prison, I invoke **Section 3(1) of the Community Service Orders Act and Order** that the Convict Gabriel Akuom Otieno shall be released from Prison to serve two months unpaid Community Service at Manywanda Health Centre, under close Supervision.

4. Orders accordingly.

5. File closed.

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

R. E. ABURILI

JUDGE