

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION CASE NO. E028 OF 2021

WILLIS ONYANGO SIJENYIAPPLICANT

VERSUS

REPUBLICRESPONDENT

(Revision Application from the judgment, conviction and sentence in Bondo Pm's Magistrates Court No. 1056 Of 2019 delivered on 27.5.2020 by Hon. S. Mathenge – Resident Magistrate)

RULING

1. The Convict Willis Onyango Sejenyi is aged 26 years. He was convicted for the offence of **stealing a motor cycle Registration KMEL 531Q valued at KShs.90,000/= the property of Kennedy Odhiambo Ambuche on 27.5.2020 at Osieko Beach, Got Agulu Sub-Location, Bondo Sub-County of Siaya County.** He was sentenced to serve 2 years imprisonment on 16.12.2019 by Hon. S. Mathenge after subsequently pleading guilty to the charge, a plea which was unequivocal. He has now been in jail for one year. The motorcycle stolen was recovered.

2. According to the Probation Officer's Report filed in Court on 11.6.2021, the Offender has been counselled and engages in Prison's farm work. The community is ready to receive him. He was married and has 3 children but separated from his wife. The Victim of the offence migrated so he was not reached for an interview. The offender regrets the offence and is remorseful. He is willing to perform unpaid Community Service. He was a first Offender.

3. The sentence imposed was lawful and lenient since the maximum under Section 278A of the Penal Code is seven years imprisonment.

4. However, in view of the need to decongest prison and as the offender accepted that he committed the offence, is remorseful and willing to change his behavior, is a first offender and aged 26 years, has served one year in prison and learnt his lesson and is willing to perform unpaid Community Service, I invoke Section 3(1) of the Community Service Orders, Act and Order that for the remainder of his prison term, the convict Willis Onyango Sijenyi shall serve unpaid Community Service which shall be duly supervised at Osieko Secondary School.

5. Orders accordingly.

6. File closed.

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

R. E. ABURILI

JUDGE