

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. E034 OF 2021

CORAM: R.E. ABURILI, J

DADDY CAMULUS OTIENO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence in Bondo PM Court's Criminal Case No. 220 of 2020 on 07.08.2020 by Hon. S.W. Mathenge, Resident Magistrate)

RULING ON REVISION

1. The convict/applicant is Daddy Camulus Otiemo aged 23 years old. He was charged and convicted for the offence of handling stolen goods. This was after a full trial. He was sentenced to serve five years imprisonment. He has not appealed against conviction or sentence. He has served sentence from 7/8/2020.
2. He now seeks for sentence revision under prison decongestion exercise.
3. I have perused the charge, the proceedings, judgement and sentence imposed.
4. I find no impropriety or irregularity in the proceedings and the sentence imposed is lawful.
5. Although the Probation Officer recommends that the convict be placed on Community Service Order at Manyatta Primary School in Kisumu for the remaining duration of his sentence, that recommendation is not backed by law.
6. Section 3 (1) of the Community Service Orders Act limits Community Service Orders to sentences which are originally imposed to be three (3) years or less, not more. The convict here did not plead guilty and he has not appealed. There is no legal basis upon which this court can revise his 5 years to Community service order.
7. The Application for revision of sentence of 5 years imprisonment is found to be devoid of merit. The same is hereby dismissed.
8. File closed.
9. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 24TH DAY OF JUNE, 2021

R.E. ABURILI

JUDGE