

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 43 OF 2020

(CORAM: R. E. ABURILI - J.)

BENARD SHICHENDE SHILIBWA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence vide Criminal Case No. 1058 of 2019 in the Principal Magistrate's Court, Bondo dated 18.12.2019 before Hon. E.N. Wasike, SRM)

RULING

1. The convict **Bernard Shichende Shilibwa** was on 18/12/2019 convicted on his own plea of guilty of the offence of Stealing by Servant contrary to **Section 281 of the Penal Code**. The value of the stolen property which was mainly household goods was estimated at Kshs. 122,000/=.
2. The convict was sentenced to serve 2½ years imprisonment. He is a first offender and in his mitigation he stated that he had children who were school going. He pleaded for leniency. No Presentence Report was called for and neither is this court in a position to call for one at the moment as the probation officers are unable to access inmates and other significant persons for purposes of interviewing them.
3. I have considered the request for sentence revision. The convict has served only 3 months of the 2½ years imprisonment imposed. Very few items stolen were recovered. The convict was entrusted with property as an employee of the complainant. He turned into a thief. The offence is serious. I find no reason to revise the lawful lenient sentence imposed on the convict. He requires rehabilitation and reformation before being released back into the community. He ought to have known the consequences of his actions.
4. I reject the request for sentence revision and dismiss it. The convict to serve full sentence and enroll in life skills trainings offered by the Prisons authorities for him to learn to eke a living through hard work.
5. Orders accordingly.

Dated, signed and Delivered at Siaya, this 23rd Day of March, 2020.

R.E. ABURILI

JUDGE