



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL REVISION NO. 27 OF 2020**

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

**EVANS MAKWATA MUKONYI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application for revision of sentence vide Principal Magistrate's Court, Bondo Criminal Case No. 749 of 2019 dated 21.1.2020 before Hon. S. Mathenge, Resident Magistrate)*

**RULING**

1. On 18/10/2019, **Evans Makwata Mukonyi** was convicted on his own plea of guilty for the offence of stealing by servant contrary to **Section 281 of the Penal Code**.
2. He was sentenced to serve 12 months imprisonment after mitigation. The Prosecution stated that he is a first offender. No Probation report was called for and this court cannot call for one as the Probation Officer is unable to access prisons to interview inmates owing to COVID-19 pandemic.
3. I have considered the above and the fact that most of the stolen properties of the complainant were recovered and returned to him. The convict was his employee and he led to the recovery of the items after he was cornered.
4. The convict has served 5 months of the 12 months imprisonment. The Officer In-charge, Siaya G.K. Prison send a positive report on his general character and conduct.
5. In view of the above, I exercise discretion and suspend the remainder of the prison term and order for the release of the convict **EVANS MAKWATA MUKONYI** from prison with a stern warning that he shall not reoffend in the next six months or risk recommittal to complete sentence.
6. Orders accordingly.

**Dated, signed and Delivered at Siaya, this 20<sup>th</sup> Day of March, 2020.**

**R.E. ABURILI**

**JUDGE**