

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. 31 'A' OF 2020

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

JUSTICE OWINO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for revision of sentence vide Principal Magistrate's Court, Bondo Criminal Case No. 86 of 2020 dated 13.2.2020 before Hon. S. Mathenge, Resident Magistrate)

RULING

1. The convict and complainant are a couple. The convict was convicted on his own plea of guilty for the offence of malicious damage to property contrary to **Section 339(1) of the Penal Code**.
2. He mitigated saying he was remorseful and would not repeat the offence. No Probation report was called for prior to being handed 12 months imprisonment. He has since served 1½ of the 12 months imprisonment. He is a first offender, according to the trial court record.
3. I am unable to call for the Probation Report following the request for revision of sentence. This is due to the COVID-19 global pandemic making it impossible for the probation offices to access the inmates and other significant persons of interest in this matter for interviews.
4. I have however, upon request, received a general conduct report from Officer Incharge G.K. Prison at Siaya which is positive of the convict.
5. For the above reasons and in the spirit of prison decongestion at this time of the outbreak of COVID-19 virus, I hereby exercise judicial discretion and suspend the remainder of the prison term imposed on the convict and order for the release of the convict **Justine Owino** from prison and warn him not to reoffend for the next 12 months in default he shall be recommitted to complete sentence.
6. Orders accordingly.

Dated, signed and Delivered at Siaya, this 20th Day of March, 2020.

R.E. ABURILI

JUDGE