

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 28 OF 2020

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

DICKENS OMONDI ONYANGO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for revision of sentence vide Principal Magistrate's Court, Bondo Criminal Case No. 545 of 2020 dated 13.8.2019 before Hon. E.N. Wasike, Senior Resident Magistrate)

RULING

1. The convict **DICKENS OMONDI ONYANGO** was sentenced to serve 20 months imprisonment for the offence of stealing contrary to **Section 268 as read with Section 275 of the Penal Code**. This was after pleading guilty to the charge. From the facts, he stole from his employer who had entrusted him with MPESA business. The value of stolen property is Kshs. 28,000/-. He is a first offender and had no mitigations.

2. No probation report was called for. I am unable to call for the same as the probation officers cannot access prisons to interview the inmates owing to the COVID-19 pandemic and management restrictions which are necessary.

3. Nonetheless, upon request by this court, the Officer in charge prisons, Siaya G.K Prison has availed a general conduct report on the convict, which is positive.

4. Having considered the above circumstances, and as the convict has been in prison from 13/8/2019 which is now seven months, and in the spirit of prison decongestion, I exercise discretion and suspend the remainder of the prison term and order for the release of the convict **Dickens Omondi Onyango** with a warning not to reoffend in the next six months in default to be recommitted to complete sentence. Therefore unless otherwise lawfully held, the convict Dickens Omondi Onyango is hereby released from prison to serve suspended sentence of the remainder term.

5. Orders accordingly.

Dated, signed and delivered at Siaya, this 19th Day of March 2020.

R.E. ABURILI

JUDGE