



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**CRIMINAL REVISION NO. 17'B' OF 2020**

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

**JOSEPHAT OTIENO OKWARO.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application for revision of sentence vide Principal Magistrate's Court, Siaya*

*Criminal Case No. 832 of 2019 dated 10.9.2020 before Hon. L. Simiyu, Principal Magistrate)*

**RULING**

1. **Josephat Otieno Okwaro** was convicted on his own plea of guilty by Siaya PM's court in *Cr. Case No 832/2019* and sentenced to serve 1 year imprisonment by Hon. L. Simiyu, PM on 10/9/2019. He has not appealed and this file is before me for revision of sentence under **Section 362 as read with Section 364 of the Criminal Procedure Code**.
2. Prior to his being sentenced, the trial court ordered for a Pre-sentence Probation Report which was filed and dated 10/9/2019 by Ochieng Ogolla which the trial court considered together with the mitigation and the fact that the accused was a first offender before sentencing him.
3. The trial court record shows that the stolen property being a basic stand, electrical power mortar and mortar clamp were recovered. Some other stolen property were not recovered. These were items from the workshop of the two Complainants in the charge sheet.
4. The convict is aged 44 years and is said to come from a well-educated family of responsible people but he is the outlier with wayward criminal tendencies. He has no dependants. The probation report reveals that the convict has the insatiable tendency, thirst and propensity to steal from people and his own family is tired of this behavior. He is unemployed and is unmarried.
5. The Assistant Chief of the area and members of the community say that the convict is a habitual thief who served prison sentence before being released and that he has been reported severally to have stolen from people only that he has not been apprehended. That when he was once released on non-custodial sentence, he did not comply with the conditions and he fled.
6. Having considered all the above circumstances, I am not persuaded that this kind of person needs to benefit from prison decongestion exercise occasioned by COVID-19 pandemic. The convict deserves to live behind bars for some time to protect the people's property from those like the convict who derive pleasure in stealing and agonizing those who work so hard to eke a living.
7. Accordingly, I find the convict unsuitable for consideration for sentence revision. The request is declined and dismissed.
8. The convict **Josephat Otieno Okwaro** to serve the lawful lenient prison term imposed by the trial court for him to learn some life's skills in prison and be rehabilitated and reformed before being released back into the society.
9. Orders accordingly.

**Dated, signed and delivered at Siaya, this 19<sup>th</sup> Day of March 2020.**

**R.E. ABURILI**

**JUDGE**