

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HC.CR. REV.NO. 203 OF 2018

JOSEPH MUTISO MUTISYA.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

1. The Applicant in this matter was convicted vide Makueni SPM's Cr. Case No.440/2018 and sentenced on 27/09/2018 as follows: -

Count I: One-year imprisonment for threatening to kill contrary to Section 223 (1) of the Penal Code.

Count II: Fifteen (15) months imprisonment for malicious damage to property contrary to Section 339(1) Penal Code. The sentences were to run concurrently.

2. On 14th December 2018, the Applicant was placed on probation I believe for the remaining term of the sentence, by Justice Wakiaga.

3. **While on probation** he was arrested, charged and convicted vide Makueni SPM's criminal case No.101/2019 for the offence of stealing contrary to Section 268 Penal Code. He was sentenced to one (1) year imprisonment on 8th March, 2019.

4. One of the conditions to be observed while one is serving on probation is to avoid committing any offence. The Applicant breached the said condition and the obvious result is revocation of the probation order from the date of commission of the said offence in Makueni SPM's Cr. Case No.101/2019.

5. **The Probation Order made on 14th December, 2018 in respect of Makueni SPM Cr. Case No.440/2018 is hereby revoked. The Applicant to serve the unserved sentence.**

Orders accordingly.

DELIVERED, SIGNED AND DATED THIS 24TH DAY OF MAY, 2019 IN OPEN COURT AT MAKUENI.

.....

H. I ONG'UDI

JUDGE