

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL DIVISION

SIAYA CR. REV. NO. 47 OF 2019.

EMMANUEL ODUOR AHAYA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an application for Revision of sentence dated 20.8.2019 in Criminal Case No. 780 of 2019 in Siaya Law Court before Hon. J. Ongondo – PM).

RULING

1. The Convict Emmanuel Oduor Ahaya was on 20.8.2019 convicted of the offence of possessing uncustomed goods. He pleaded guilty and was sentenced to serve 2 years imprisonment and the goods which included sugar valued at KShs.23,000/= was forfeited to the State by Hon J. Ongondo, P.M. at Siaya vide Siaya P.M.Cr. Case No. 730/2019.
2. He has not appealed. He applies for revision of his sentence.
3. A Probation Officer's Report dated 18.9.2019 and filed on 24.9.2019 shows that the convict was a Pastor in good standing at Ndere. He is respected in the Community and is a businessman.
4. He does not use alcohol nor abuse drugs.
5. He has dependants, a wife, children and his mother who is widowed and siblings. He is 35 years old.
6. He takes responsibility for offence and is remorseful.
7. The Probation Officer recommends Probation for one year.
8. Having considered the application for sentence for sentence revision, which sentence was lawful and lenient, and having fully appreciated the Probation Report and the Convict's antecedents I am satisfied that the Convict can benefit from non-custodial sentence. He is a first offender.
9. I hereby revise his Prison sentence and order that the Convict Emmanuel Oduol Ahaya shall serve unpaid Community Service at Siaya Police Station under direct supervision of the O.C.S. Siaya Police Station for a period of 9 months from the date of his release.
10. File closed.

DATED AT SIAYA THIS 26 DAY OF SEPTEMBER, 2019.

HON. LADY JUSTICE R. E. ABURILI

JUDGE