



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 63 OF 2019

GEORGE COLLINS OTIENO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an application for Revision of Conviction and Sentence in Siaya

PM CR Case No. 63 of 2019. dated 21.2.2019 before Hon M. Obiero – P.M.)

RULING

1. On 2.10.2019 the convict **George Collins Otiemo** filed his application for review of sentence of 3 years imprisonment meted out on him for the offence of **shop breaking and stealing contrary to Section 306(a) of the Penal Code**. He was tried and convicted by **Bondo PMCR Case No. 1066 of 2018**.

2. He was one of the 9 accused persons who were charged and convicted for subject offence. The property stolen from the complainant's shop was valued at KShs 195,330. There is no evidence that he has appealed against conviction and sentence imposed.

3. Upon the court receiving revision application, the Deputy Registrar of this court ordered for a Social Inquiry Report on him and the report was filed on 24.10.2019 duly signed by **Mr. Josiah Ongori Ondari**, Probation Officer, and Siaya.

4. In the said report, the convict is said to be aged 34 years and readily admits having been lured into committing the offence by one of the complainant's shop attendants who stage-managed the theft by failing to lock the rear doors thereby giving the convicts leeway to access the shop and steal the shop goods.

5. He is married with two children who depend on him.

6. He does not use any drugs or substances and is said to be of good conduct except this incident.

7. The probation officer claims that the victim of the offence is not vindictive and says that the offender has learnt a lesson.

8. The convict is said to be remorseful and promises not to reoffend.

9. The Probation Officer recommends Community Service Order at Boro Primary School.

10. Having considered the Probation Officer's sentence Review report, and as the convict has served 8 months of the 3 years imprisonment, and the convict being a first offender who is remorseful, I exercise revisionary powers of this court and revise the lawful sentence imposed on him and order that the convict **George Collins Otiemo** shall be released from prison to serve unpaid Community Service Order at the **Central Alego Chief's Office** for a period of Nine(9) months from the date of his release, under the direct supervision and direction of the said Chief, Central Alego **Mr. Felix Omudho**.

11. Orders accordingly.

Dated, Signed and Delivered This 29TH Day of October, 2019.

R.E. ABURILI

JUDGE