



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL REVISION NO. 107 OF 2019**

**ZACHARY OUMA ONYANGO.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application for Revision of sentence in Criminal Case No.*

*584 of 2019 at Bondo Principal Magistrate's Court, delivered on 28.11.2019)*

**RULING**

1. The convict ZACHARY OUMA ONYANO was sentenced on 18/11/2019 for the offence of creating a disturbance contrary to Section 95(1)(b) of the Penal Code. He was sentenced to serve 6 months imprisonment in Ukwala SRM Cr. C. No. 584/2019. He has so far served only one month. The sentence imposed was the maximum for the misdemeanour. The convict could have benefitted from alternative non-custodial sentence. However, the sentence is lawful.

2. In view of the congestion in prison, I exercise judicial discretion and substitute the remainder of the prison sentence with a conditional discharge under Section 35 of the Penal Code for the convict not to commit any offence in the next one year and in breach thereof the convict shall be send back to prison to serve the balance of the prison term unserved.

3. File closed.

4. Orders accordingly.

**Dated, signed and Delivered at Siaya this 20<sup>th</sup> Day of December 2019**

**R.E. ABURILI**

**JUDGE**