

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

(GRIEVOUS HARM)

H.C. CRIMINAL APPLICATION NO. 126 OF 2018

SAMUEL JUMA MAKOKHA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against both the conviction and the sentence dated 30.11.2017 in Criminal Case No.334 of 2017 in Ukwala Senior Resident Magistrate's Court before Hon. G. Adhiambo – SRM)

RULING:

1. I have considered the Application by the Applicant dated 23.5.2018 seeking for parole in view of the fact that he has served nearly 2/3 of his 9 months imprisonment. In the Application, the Applicant seeks for review of the Revision Order made on 21.5.2018 by Hon. Majanja – J. releasing him to complete his sentence under Community Service Order of 3 months.
2. Having perused the file, I note that the Hon. Judge did not take into account the length of sentence meted out on the convict and when it was likely to be fully served.
3. It has now occurred that the term of imprisonment is due on 30.5.2018 and therefore it would be illegal for the convict to serve an extended sentence of 3 months under Community Service Order.
4. For reasons that the order made on 21.5.2018 for release of the convict to serve CSO was made per incuriam, I hereby review the said order of 21.5.2018 and set it aside and substitute it with an order that the convict shall forthwith be released from prison unless otherwise lawfully held. He is accordingly discharged.

Dated, Signed and Delivered at Siaya this 23rd day of May 2018.

R. E. ABURILI

JUDGE