



**REPUBLIC OF KENYA**

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

**HC CR. REV. NO. 130 OF 2018**

**(CORAM: R. E. ABURILI - J.)**

**BENSON OMONDI OGUTU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON REVISION**

On 11/5/2018, the Applicant is Benson Omondi Ogutu was convicted on his own plea of guilty for the offence of burglary contrary to **Section 304(2) of the Penal Code as read which Section 279(b) of the Penal Code**. He was sentenced to serve 2years imprisonment. The exhibits were recovered and returned to the Complainant George Owino Paul. They were valued at Kshs. 50,000/=.

The Applicant never challenged the conviction and sentence. He however, now applies for revision of sentence imposed on him by Hon. T. M. Olando, SRM.

I have examined the record and I see no imprometry or irregularity in the conviction and sentence imposed on the Applicant/Convict.

I have considered the post sentence review report filed by the Probation Officer, Siaya Mr. Odumba David. It is dated 19<sup>th</sup> July 2018.

The report shows that the applicant convict is a young adult aged 21 years old and a Standard 7 dropout. He got married but his wife left him with 2 children. He was a first offender who bought stolen items from the Complainant's employee. He is hardworking and is remorseful. He abuses bhang but is asthmatic. His home is conclusive for his rehabilitation.

The Probation Report is favourable for consideration of the Application for a non-custodial sentence as he has leant his lessons in prison.

I note that the Applicant convict is a young person who can work and eke a decent living away from crime, instead of wasting away. He is hereby accorded an opportunity to be rehabilitated, guided and counselled by the Probation Officer.

**I revise his sentence of 2years and substitute it with a non-custodial sentence of 6months' probation sentence under close supervision of the Probation Officer, Siaya County.**

**Accordingly the application for revision of sentence is allowed.**

**Dated, Signed and Delivered at SIAYA this 31<sup>ST</sup> DAY OF JULY 2018.**

**R.E. ABURILI**

**JUDGE**