

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

HC. CR. REV. NO. 129 OF 2018

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

CHARLES ONDEGO OPIYO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against both the conviction and the sentence

dated 21.3.2018 in Criminal Case No. 436 of 2017

in

Siaya Law Court before Hon. J. Ongondo – PM)

RULING OF THE COURT

I have perused the file. I have also considered the Probation Officer's post sentencing Review Report. The convict is serving 2 years imprisonment for the offence of obtaining money by false pretences. The conviction was sound and the sentence is lawful. The same are not being challenged.

However, in line with the Prison Decongestion Policy, I note that the convict can benefit from a lesser sentence which is non-custodial. The Complainant victim of the crime has the opportunity to claim and recover from the convict her money which the convict received through the filing of a Civil Suit against the convict who is now remorseful and has skills to work and eke a living.

In the premises, I revise the prison sentence 2years imprisonment and substitute it with a non-custodial sentence of 9months of Probation Supervision by Probation Officer, Siaya.

Dated, Signed and Delivered at SIAYA this 31ST day of July 2018.

R.E. ABURILI

JUDGE

In the presence of:

Mr. Okach: Prosecution Counsel for the State

Charles Ondengo: Appellant in person (present)

Court Assistant: Akida and Brenda