

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

HC CR. REV. NO. 135 OF 2018

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

PIUS ONYANGO NYANDO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING ON REVISION

The Applicant/Convict is **Pius Onyango Nyando**. He was convicted of the offence of manufacturing alcoholic drinks contrary to **Section 32(1) (b) of the Alcoholic Drinks Control Act No. 4 of 2010** and he pleaded not guilty before Ukwala SRM, Hon. G. Adhiambo. He was tried and found guilty of the offence and sentence to pay a fine of Kshs. 100,000/= in default to serve 12 months imprisonment on 25th May 2018.

He has not appealed and pleads for revision of his sentence. He is 67 years old, married with 5 children; some in college and others in high school, according to the Probation Officer's report dated 15th July 2018 signed by David Ojow, Probation Officer, Siaya.

He is now remorseful and willing to change his trade to fend for his family.

I have considered his plea though belated, but the convict appears to have learnt his lessons as an elderly person. He however is said to be cunning and that is why he took the Prosecution and the Court through wasteful motions of the trial leading to his conviction and sentence.

He suffers from lower back pains associated with old age. He may not be useful for CSO. He can however be rehabilitated and counseled to live a life free from crime to engage in alternative trades to fend for his family.

In the premises, I revise his sentence and substitute it with an order that Applicant/Convict shall be placed on Probation for a period of 7 months from the date of release from prison, under close supervision of the Probation Officer, Siaya County.

Dated, Signed and Delivered at SIAYA this 31ST DAY OF JULY 2018.

R.E. ABURILI

JUDGE