

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

HC. CR. REV. NO. 88 OF 2018

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

EVANS ODUOR DEVA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against the sentence dated 19.4.2017 in Criminal Case No. 135 of 2016 in Ukwala Law Court before Hon. R.M. Oanda - SRM)

JUDGMENT

The Convict **Evans Oduor Deva** was vide Ukwala SRM Cr. Case No. 135 of 2016 convicted of the *offence of entering/being in a dwelling house with intent commit a felony contrary to Section 305(1) of the Penal Code*. He was sentenced to serve 3 years imprisonment by Hon. R.M. Oanda SRM on 19/4/2016 on his own plea of guilty. He never appealed.

The Probation Report filed prior to his sentencing on 12/4/2016 was not favourable for him to be placed on probation as he was a recidivist having been convicted by Busia Court for theft of farm produce in 2012 vide Cr. Case No. 194/2012 when he was only 17 years and placed on probation for 18 months.

He absconded and was later arrested having committed another offence and imprisoned. As at 12/2/2016 he was 22years, a young adult with criminal tendencies.

Albeit 3 years imprisonment could have seen him serve sentence in prison until 18/4/2019, he was released on 6/5/2018 on remission.

Accordingly, as sentence was lawful and lenient for a recidivist, this court believes only prison could reform the convict.

In the end, I find this request to have come to this request for sentence review, too late in the day.

Accordingly, I order that this file be closed for archiving purposes.

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

R.E. ABURILI

JUDGE