

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NUMBER 81 OF 2017

GEORGE OBONDO CHANGA.....APPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

The application herein filed on 24th May, 2017 is for revision of the sentence. The Applicant was the 1st accused in **Kibera Chief Magistrates' Court Cr. Case No. 1320 of 2009**. He was convicted with respect to counts III, IV, V, VI and VII in which he was charged in all the counts with uttering a document with intent to defraud contrary to **Section 353 of the Penal Code**. The sentences were to run concurrently commencing the 26th April, 2016. Under **Section 353 of the Penal Code**, any person convicted for the offence of uttering a false document is liable to the same punishment as if he had forged the thing in question. The punishment for forgery is provided under **Section 349 of the Penal Code** which is an imprisonment for three (3) years.

I note that the Applicant had filed a similar application vide H.C. Revision No. 300 of 2016. On 15th December, 2016, in that application, the Judge ruled that the Applicant had not served sufficient sentence to warrant a revision. Attached to the application is a probation officer's report. The same is favourable to the Applicant and had recommended that he could perform community service at Kitengela Health Centre or be placed under probation under the supervision of the in-charge Athi River Probation office. As at date, he has served one year and three months, leaving a balance of half the punishment. In view of the favourable probation officer's report, I shall direct that he serves the balance of the punishment under non-custodial sentence.

In the result, I substitute the custodial sentence with an order that the Applicant shall serve the remainder of the sentence under CSO at Kitengela Health Centre for a period of six months. It is so ordered.

Dated and Delivered at Nairobi this 3rd day of August, 2017.

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

Applicant in person

M/s Sigei for the Respondent.