

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL REVISION NO. 2 OF 2014

ELIUD KINYUA NJUEAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

From original conviction and sentence in Cr. Case No. 14 of 2014 at the Chief Magistrate's Court Embu by HON. M. WACHIRA – CM on 17/1/2014

RULING

The applicant herein was convicted of the offence of malicious damage to window panes valued at shs.2,500/=. He pleaded guilty to the charge. The facts indicate that he had come home drunk that day. The window panes he destroyed belonged to his sister.

A probation report presented to the Court showed that the applicant has wasted himself in alcohol drinking. He was therefore sent to Prison for 18 months with no option of a fine. The State has opposed this application saying there was nothing unlawful about the conviction or sentence.

The record confirms that the plea was unequivocal. The offence the applicant was convicted of is a misdemeanor with a sentence of upto five (5) years imprisonment. Given that the complainant is a sister to the applicant and that he is ready to pay for the broken window panes, it's only fair that he be given a chance to reconcile with his family. He was convicted on 17/1/2014 and should be due for release around the same time in 2015. Being in Prison for six (6) months should have taught him a few lessons. I therefore order that he serves the remaining Prison term on Community Service Orders at Kangaru Police Post. He should report to the incharge on 23/6/2014.

H.I. ONG'UDI

JUDGE

A copy of this order should be served on the incharge Kangaru Police Post and County Probation Officer Embu and if the applicant does not report for work he should be arrested and brought back here for necessary action.

DATED, SIGNED AND DELIVERED AT EMBU THIS 20TH DAY OF JUNE 2014.

H.I. ONG'UDI

JUDGE

In the presence of:-

M/s Mbae for State

Applicant – present

Njue/Kirong – C/c