

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CRIMINAL REVISION NO.174 OF 2012
(Arising from Kericho CM Criminal Case No.911 of 2012)

JANET AYEMBA - APPLICANT

VERSUS

REPUBLIC - RESPONDENT

RULING

On 7th day of June 2012, Janet Ayemba, hereinafter referred to as the Applicant, pleaded guilty to the charge of Stealing contrary to Section 275 of the Penal Code. The court prosecutor outlined the facts in support of charge on 12th June 2012 which facts were confirmed by the applicant to be truth. The Applicant was thereafter convicted and sentenced to serve five (5) years imprisonment. The aforesaid proceedings in Kericho CMCR.C. No. 911 of 2012, R -vs- Janet ayemba was placed before this court to peruse pursuant to Section 363(2) of the Criminal Procedure Code.

In exercising the supervisory power of revision under Section 362 of the Criminal Procedure Code, this court is enjoined to satisfy itself as to the correctness, legality and propriety of the decision made or recorded by the subordinate court. I have carefully perused the record and it is clear that the applicant was convicted and sentenced to serve 5 years for the offence of stealing under Section 275 of the Penal Code. The maximum sentence provided for such an offence is three (3) years. The sentence pronounced against the applicant was therefore illegal and must be set aside. The record shows that the applicant was a first offender and had readily pleaded guilty. It would also appear from the record that she was remorseful. I think a lenient sentence should have been given in the circumstances. Consequently, I set aside the order of sentence of 5 years and substitute it with a sentence of 12 months from the date of sentence i.e. from 12th June 2012. It means that the applicant has served sentence in full.

Consequently she should be released from prison immediately.

Dated, signed and delivered at Kericho this 15th day of July 2013.

J. K. SERGON

JUDGE