

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

REVISION NO. 165 OF 2013

(Being A Revision in the Conviction and Sentence on 06.11.2012 by the Honourable Ag. Senior Resident Magistrate, V.Karanja at Bomet in Criminal Case No.657 of 2012)

BENARD KIPLANGAT MUTAI.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday 18th October, 2013)

RULING ON REVISION

This is the ruling in an application for revision under **Section 362** and **364** of the **Criminal Procedure Code Cap 75** and **Section 8 (2)** of the **Community Service Orders Act, 1998**. The Applicant Benard Kiplangat Mutai was convicted and sentenced on account of the charge of stealing stock contrary to **Section 278** of the **Penal Code Cap 63** and sentenced to 3 years imprisonment with effect from 6/11/2012.

The report by the probation officer mistakenly refers to charge of riding uninsured motor cycle contrary to Section 25A (4) (8) of the Traffic Act.

The court has considered the gravity of the offence and the mistaken probation report as far as the offence in issue is concerned.

In conclusion, the application for community service is denied and the trial court's sentence upheld.

Signed, dated and delivered in court at Kericho this Friday, 18th October, 2013.

BYRAM ONGAYA

JUDGE