

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

REVISION NO. 189 OF 2013

(Being A Revision in the Conviction and Sentence on 10.09.2013 by the Honourable V. Karanja Acting Senior Resident Magistrate at Bomet in Criminal Case No. 831 of 2013)

GEOFFREY KIPLANGAT KIBET.....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 **Sections 362 and 364** of the **Criminal Procedure Code, Chapter 75** of the **Laws of Kenya**, and under Section 8(2) of the Community Service Orders Act, 1998. The applicant is Geoffrey Kiplangat Kibet who was charged with the offences of entering into a dwelling with intent to commit a felony contrary to Section 305 (1) of the Penal Code, Chapter 63, Laws of Kenya in Criminal case No. 831 of 2013 in the Acting Senior Resident Magistrate's Court at Bomet.

The applicant pleaded guilty as charged and the learned trial magistrate on 10.09.2013 convicted and sentenced him to serve two years imprisonment.

The probation officer had filed a report prior to the sentence by the trial court. The report indicated that the applicant was an adopted child and as a young man, his community was hostile against him in view of his repeated criminal behaviour in the company of his peers. His family's position was that custodial rehabilitation was the best in the circumstances because all other avenues would not serve him and the community would likely lynch him if he was set free to the society.

Following the present application the probation officer has filed another report which indicates that the applicant is not remorseful and is therefore not suitable for a community service order.

The court has considered the report by the probation officer and the gravity of the offence. It is the court's opinion that the custodial sentence is appropriate towards civilising the applicant through rehabilitation into a disciplined, responsible and law abiding citizen.

In conclusion, the conviction and sentence by the honourable trial court is upheld as the application for the community service order is declined.

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

BYRAM ONGAYA

JUDGE