

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

REVISION NO. 192 OF 2013

(Being A Revision in the Conviction and Sentence on 12.08.2013 by the Honourable J. Kwena Senior Principal Magistrate at Bomet in Criminal Case No. 763 of 2013)

ROBERT KIPNGENO CHERUIYOT.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

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

JUDGMENT

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 Robert Kipngeno Cheruiyot who was charged with the offence of malicious damage to property contrary to Section 339(1) of the Penal Code, Chapter 63, Laws of Kenya, in Criminal case No. 763 of 2013 in Senior Principal Magistrate's Court at Bomet. The particulars of the charge were that on 2.08.2013 at Moso Village in Bomet County the applicant wilfully and unlawfully destroyed the barbed wire fence valued at Kshs. 5,000.00, the property of Paul Arap Tuiya.

The applicant pleaded guilty as charged and the learned trial magistrate on 12.08.2013 convicted and sentenced him to a fine of Kshs. 10,000 or to serve six months imprisonment. The probation officer has filed a report which establishes that the applicant has served two months imprisonment and he is sorry for his actions as has resolved to change for the better.

Accordingly, the report recommends that the applicant is suitable for community service at Kiramwok chief's office under the supervision of the chief.

The court has considered the report by the probation officer and the period of 2 months already served. The court considers that the applicant has promised to change and resolved to be a good citizen and further resolved not to repeat the offence. In the circumstances of the case, the sentence of the fine of Kshs.10, 000.00 or six months imprisonment is altered and substituted to the extent that the applicant shall perform community service, for 12 days from the date of this ruling, at Kiramwok Chief's Office under the supervision of the Chief.

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

BYRAM ONGAYA

JUDGE