



**Wandera v Republic (Criminal Revision E164 of 2023)  
[2024] KEHC 1488 (KLR) (20 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1488 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E164 OF 2023  
DR KAVEDZA, J  
FEBRUARY 20, 2024**

**BETWEEN**

**BENARD OTIENGI WANDERA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant filed a notice of motion dated 8<sup>th</sup> February 2023 seeking sentence review. The application is supported by an affidavit sworn by the applicant. The grounds raised are that the sentence imposed is harsh and excessive. The trial court failed to consider the time spent in remand custody and he is a first offender. He urged the court to grant a non-custodial sentence.
2. I have considered the record and note that the applicant was charged and convicted for the offence of stealing contrary to section 268 of the *Penal Code*, Cap 63 Laws of Kenya. He was sentenced to pay a fine of 30,000 in default to serve six (6) months imprisonment. In addition, he was directed to compensate the complainant Kshs. 100,000 in default to serve an additional one-year imprisonment.
3. Sentences are intended, *inter alia*, to punish an offender for his wrongdoing, they also aim to rehabilitate offenders to renounce their criminal tendencies and become law-abiding citizens. I have no doubt that the sentence imposed by the trial court, in this case, was lawful but considering that the appellant was a first offender, I am satisfied that the sentence was harsh and manifestly excessive.
4. For the above reason, I hereby set aside the sentence imposed and order that the time served is sufficient. The applicant is set at liberty unless otherwise lawfully held.

Orders accordingly

**RULING DATED AND DELIVERED VIRTUALLY THIS 20<sup>TH</sup> FEBRUARY 2024**

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**D. KAVEDZA**  
**JUDGE**

