



**Kibet v Republic (Criminal Revision E285 of 2023)
[2024] KEHC 3424 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3424 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E285 OF 2023
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

JEBLA KIBET APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of stealing contrary to section 268(1) as read with section 275 of the Penal code. The particulars of the offence are that on the 14th day of December, 2022 at Eldoret town in Turbo sub-county within Uasin Gishu County stole 2 bags 50Kgs sugar, 1 carton of 700 grams bar soap, 1 carton 500gms Chipsy cooking fat, 1 crate of 500Mils afia mixed fruit, 1 packet of Rhino match box, 2 bags of 25kgs Rice, 16 litres Golden fry cooking oil, 1 packet mara moja medicine, 1 carton of Maria biscuit.
2. The applicant pleaded guilty to the offence before Hon. P.N. Areri on 14th June, 2023 and as a consequence, he was convicted on his own plea of guilty and sentenced to serve 2 years imprisonment.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the Criminal Procedure Code as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6) (a)&(b) of the Constitution.
4. The applicant seeks a sentence review. He prays that he may be allowed to serve a non-custodial sentence. The probation officer filed a report on 25th March, 2024. The Probation report indicates the following:
5. Jebla Kibet was born in 2000. He is the 4th born in a family of six siblings. The applicant attended Kapsitwet primary school in Trans Nzoia dropped in class 8. He later came to Eldoret to seek for a job, where he worked as a boda boda when he was arrested. He is married to one wife and they have sired one child together. The family and the community are not against his early release.



6. The report further suggests that the prison records indicate that the inmate is fit for release. The family and community are willing to be part of rehabilitation. The remorseful and takes responsibility for his offence. It is recorded that the inmate is ready to serve the community if the court considers him for a non-custodial sentence. The report recommended that the applicant be placed on probation Order for 7 months.
7. The report is responsive. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
 - a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
 - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
 - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - d) Protection of the community: - where the offender is likely to pose a threat to the community.
 - e) Offender's responsibility to third parties: - where there are people depending on the offender.
8. I have considered the offence in question and the aggravating factors. The sentencing objectives in Kenya have been captured in the Sentencing guidelines 2023 to be the following: -
 - i. Retribution: to punish the offender for his/her criminal conduct in a just manner.
 - ii. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
 - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
 - v. Community protection: to protect the community by incapacitating the offender.
 - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation: To mend the relationship between the offender, the victim and the community.
 - viii. Reintegration: To facilitate the re-entry of the offender into the society.
9. My considered view is that considering the aforementioned factors and the objectives of sentencing in totality, the applicant ought to serve a non-custodial sentence. He has a remainder of seven months and I believe the period he has served in custody has shaped his character. I see no reason why he should continue to serve a custodial sentence. In the end, I am inclined to direct that he serves a non-custodial sentence for the remainder of the sentence period of seven months. The applicant is hereby placed on probation for 7 months. The same shall be done under the supervision of the probation officer.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 11TH DAY OF APRIL 2024.

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R. NYAKUNDI
JUDGE

