



**Lagat v Republic (Criminal Revision E092 of 2024)
[2024] KEHC 3437 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3437 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E092 OF 2024
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

WELDONE KIPTOO LAGAT APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Representation:

Mark Mugun for the state

1. The applicant was charged with the offence of theft of farm produce contrary to section 8(1) of [Stock Produce Theft Act](#) Cap 335 Laws of Kenya. The particulars of the offence were that on the 30th October, 2023 at around 1600 Hours at Kelji village in Moiben sub-county within Uasin Gishu county, stole 180kgs of maize valued at Kshs. 12,000/=, the property of Judith Jelagat.
2. The applicant pleaded guilty to the offence before Hon. O. Mogire on 15th November, 2023 and as a consequence, he was convicted on his own plea of guilty and sentenced to serve two 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 based on the probation report dated 27th March, 2024. The probation officer’s report indicates that from their interview with the prison administration, there is an indication that the applicant has reformed and well behaved. That he should be considered for a sentence review because he is a first offender. In the Probation officer’s report, the applicant has pleaded for a non-custodial sentence on grounds that he is reformed and he promised not to reoffend.



5. The recommendation fronted by the probation officer is that considering the inmate home environment is suitable for his rehabilitation and re-integration, he can serve a probation sentence for a period of 11 months so that he can receive appropriate guidance and counselling to avoid reoffending.
6. 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.
7. I have considered the said charge in question and the probation officer's report. The sentenced is hereby reviewed for the applicant to serve on probation for a period of 11 months.

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

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R. NYAKUNDI

JUDGE

