



REPUBLIC OF KENYA



**Mukoya v Republic (Criminal Revision E101 of 2024)
[2024] KEHC 4274 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4274 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E101 OF 2024
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

MICHAEL HENRY MUKOYA APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an application for revision of sentence in criminal case no.
E1273 of 2023 before Hon. P.N. Areri (SPM) dated 12th June 2023.)*

RULING

1. The applicant was charged, tried, convicted and sentenced to 2 years imprisonment for the offence of stealing contrary to section 268 as read with section 275 of the Penal Code.
2. In terms of section 362, 364& 382 of the Criminal Procedure Code as read with Article 50(6)(a)&(b) of the Constitution and further taking into account the Probation Officer's report dated the 18th day of March 2024, the custodial sentence so imposed by the learned trial Magistrate be and is hereby reviewed to the period already served.
3. It is my considered view that the purpose of the revisionary powers of the High Court is to correct manifest irregularities or illegalities and give appropriate directions. The Court is also empowered to alter or reverse an order. In exercising discretion to this extent, the Court hereby takes cognizance of the fact that there was recovery of part of the stolen property which was restituted to the complainant. That is a mitigating factor in addition to the fact that the convict/applicant admitted the offence which in my apprehension are factors the learned trial Magistrate did not take into account in computing the final verdict.
4. As a consequence, the applicant shall serve the remainder of his 6 month sentence under a non-custodial sentence where he shall be to a Community Service Order at Esibakha Primary School under the supervision of the officer in charge. This being a supervisory jurisdiction imposed upon the



Probation officer, periodical reports on the performance of the applicant shall be submitted to the Court after the first half and thereafter at the end of the probation period for compliance with the Probation order.

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

.....

R. NYAKUNDI

JUDGE

