



REPUBLIC OF KENYA



**KENYA LAW**  
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**Wekesa v Republic (Criminal Revision E136 of 2024)  
[2024] KEHC 6620 (KLR) (7 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6620 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E136 OF 2024**

**RN NYAKUNDI, J**

**JUNE 7, 2024**

**BETWEEN**

**SAMWEL WEKESA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

**Representation:**

Mr. Mark Mugun for the state

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 13<sup>th</sup> April, 2024, at Munyaka area in Ainabkoi Sub-County within Uasin Gishu County, the Applicant stole Kshs. 3,000/=from Felix Inziani.
2. The applicant pleaded guilty to the offence before Hon. C. Kesse on 17<sup>th</sup> April, 2024 and as a consequence, he was convicted on his own plea of guilty and sentenced to a fine of Kshs. 10,000/= in default 8 months 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) and conjunctively read with Article 50(6)(a) &(b) of the *Constitution*.
4. The applicant seeks a sentence review based on the sentence review report on record. The report is favorable. It is reported that the applicant tis remorseful and feels that he has missed a lot of opportunities out there. He is convinced that he has learned the hard way and has vowed never to re-offend. The officer recommended the applicant to community service orders at Kimumu Probation Hostel for a period of three weeks.



5. Before imposing a non-custodial sentence, the court should consider the gravity of the offence, criminal history of the offender, character of the offender, protection of the community and the offender's responsibilities to third parties.
6. Additionally, *Community Service Orders Act* makes it possible for courts to issue an order requiring the offender to perform community service. This option is available to court when the offender is convicted of an offence punishable by imprisonment for a term not exceeding three years or imprisonment for a term exceeding three years but for which the court determines that any of that term as would be appropriate be served within the community on unpaid public works.
7. I have considered the offence in question and I must say that from the onset, victim offender mediation ought to have been encouraged and a non-custodial sentence imposed. A non-custodial sentence in such circumstances would in my view achieve the objectives of sentencing. Therefore, the effective measure as recommended by the probation officer is to have the applicant serve the remainder of his sentence on CSO at Kimumu Probation Hostel for the remaining period and the Probation officer to effect supervision as appropriate.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 7<sup>TH</sup> DAY OF JUNE 2024.**

.....

**R. NYAKUNDI**

**JUDGE**

