



REPUBLIC OF KENYA



**Otieno v Republic (Criminal Revision E002 of 2023)
[2023] KEHC 55 (KLR) (16 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 55 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E002 OF 2023
RE ABURILI, J
JANUARY 16, 2023**

BETWEEN

GEORGE ODUOR OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for sentence revision in Bondo PM's Criminal Case No. 354 of 2020 delivered by Hon. J.P. Nandi, Principal Magistrate on 15.12.2020 AND in Siaya HC Revision Case No. E040/2021 by Hon. R.E. Aburili, J)

RULING

1. The convict herein George Oduor Otieno was convicted of the offence of Housebreaking contrary to Section 304(1) and Stealing contrary to Section 279(b) of the [Penal Code](#) and sentence to serve three years imprisonment on the 1st limb, and 3 years imprisonment on the 2nd limb. Sentences to run consecutively. This was on 15/12/2020 vide Bondo PM Cr. Case No. 354/2020.
2. He applied to this court vide HCR Revision Case No. E040/2021 after serving first 6 months of the prison term.
3. This court declined to revise the sentence then, after reviewing a Presentence Review Report filed on 15/12/2020 which showed that the convict was aged 28 years old and was a person of wayward character who used to steal and vandalize property to get scrap metal and that he could not be rehabilitated outside prison. He admitted stealing for his subsistence. He was not married and that his life was in danger from the angry community members who were tired of his bad behavior and conduct. His own mother was unwilling to take him back home as he was a nuisance to the family and the community at large and that despite her efforts to aid him to live an independent life, he chose to live by crime.



4. The convict has now served two years and one month of the 3 years imprisonment. He has 11 months more and it is not clear whether he has received remission or not of the 1/3 sentence. In my view, and in the absence of any negative report on the character and conduct of the convict who is serving at Siaya G.K. Prisons, I believe that he has learnt life's lessons and can be given a chance for non-custodial sentence in the spirit of prison decongestion.
5. The convict's abode is Bondo Township. I hereby order that the convict George Oduor Otieno shall be released from prison to serve unpaid community service at Bondo Police Station for a period of six months (6) under close supervision of the OCS Bondo Police Station and should he breach CSO terms, he shall be sent back to prison to complete the unserved prison term.
6. I so order.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 16TH DAY OF JANUARY, 2023

R.E. ABURILI

JUDGE

