



**Bett v Republic (Revision Case E436 of 2022)  
[2023] KEHC 17274 (KLR) (23 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 17274 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
REVISION CASE E436 OF 2022  
HM NYAGA, J  
MARCH 23, 2023**

**BETWEEN**

**DENIS KIPLANGAT BETT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged before the Chief Magistrate’s Court at Molo on May 19, 2022 for the offence of Stealing stock contrary to Section 278 of the Penal Code. On June 7, 2022, he was convicted and sentenced to serve two (2) years imprisonment.
2. The Pre-sentence report in the Lower court was against the Applicant being released on a non-custodial sentence because he was a repeat offender. The lower court also noted that the Local Administration was adamant in their opposition to his release on a non-custodial sentence.
3. This file has been placed before me for revision of the sentence under the powers granted to this Court by Article 165 (6)(7) of the Constitution. It is also part of the larger exercise by the Judiciary to decongest the prisons, where applicable. To this end the Honourable the Chief Justice gave directions on the courts to make efforts to decongest the prisons which are overcrowded.
4. The said articles of the Constitution provide as follows;
  - (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.
  - (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.



5. The applicant has served about 1 year 3 months in prison. The value of the stolen property being 14 sheep is Kshs 112,000/=.
6. In the Sentence Review Report filed on 31/8/2022, the Community Service Officer, Dorothy Bett recommends community service.
7. I have perused the Presentence and the Sentence Review reports.
8. The convict is a young man who is 27 years. He dropped out of School in class 7 due to financial constraints. He is married with two children who are aged 5 and 3 years. He attributes the commission of the offence to poverty. He has been in prison for 1 year 3 months. He seeks for leniency and promises to change his behaviour. The prison authorities are positive about his behaviour change and they state that he has attained farming skills while in prison.
9. In my view if a custodial sentence was necessary, then it has served its purpose.
10. In order to decongest the prisons, this court exercises its unfettered discretion and orders that the Convict/Applicant be released from prison forthwith. He is placed on Community Service at Sirikwa Chief's Camp for the remainder of his term. He shall be closely supervised by the Chief, Sirikwa location who shall ensure the convict faithfully performs any assigned community service to his satisfaction and weekly reports made to the Probation Officer, Molo who shall monitor the behaviour of the convict for the remainder of the sentence. As required by the law the applicant is informed that in the event of breach, this CSO order shall be revoked and he shall be returned to prison to serve the remainder of his prison term as imposed.

File closed.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 23RD DAY OF MARCH, 2023.**

**H. M. NYAGA**

**JUDGE**

In the presence of;

C/A Jeniffer

Ms Murunga for state

Applicant present

