



**Mutai v Republic (Revision Case E600 of 2022)
[2023] KEHC 20945 (KLR) (24 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20945 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E600 OF 2022
SM MOHOCHI, J
JULY 24, 2023**

BETWEEN

CHARLES KIPYEGON MUTAI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant moves court for review of sentence having been convicted on his own plea of guilty for the offence of stock theft contrary to section 278 of the Penal Code and sentenced to imprisonment of 1 ½ years.
2. It is noteworthy that the imprisonment was in default of payment of two fines of Kshs.20,000 on count 1 upon default he was to serve one (1) year imprisonment and a fine of Kshs.30,000 on count 2, upon default he was to serve six (6) month imprisonment.
3. The court did not specify if these sentences shall run consecutively, or concurrently.
4. The court ignored the applicant's mitigation and deprived off the 1st offender advantage without basis.
5. A favourable probation service, sentence review report dated February 1, 2023 signed by Mr. Muriithi Kirai the recommending the applicant serve community service orders at the Emitik Dispensary for the remainder of the sentence.
6. The court finds merit in the application and allows the same. The sentence is hereby set aside and varied.
7. The applicant shall serve community service orders for the remainder of her sentence at the Emitik dispensary.
8. The community service order officer, Molo to ensure compliance by the applicant.

It is so ordered.



**SIGNED, DATED and DELIVERED in open Court at Nakuru on
this 24th July 2023**

Mohochi S.M

JUDGE

In the presence of: -

Court Assistant – Schola

State Counsel – Ms. Mburu

Page 2 of 2

