



**Bett v Republic (Criminal Revision E117 of 2023)
[2023] KEHC 23823 (KLR) (19 October 2023) (Revision)**

Neutral citation: [2023] KEHC 23823 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E117 OF 2023
JK SERGON, J
OCTOBER 19, 2023**

BETWEEN

EVANS KIPKIRUI BETT APPLICANT

AND

REPUBLIC RESPONDENT

REVISION

1. Evans Kipkirui Bett hereinafter referred to as the applicant was convicted on his own plea of guilty of the offence of Stealing Contrary to Section 268 (1) as read with Section 275 of the Penal Code. He was sentenced to serve three (3) years imprisonment.
2. Pursuant to the letter received in Court on 9th October, 2023 written by one Ezekiel Ochieng, the Complainant in the case, the file relating to the proceedings leading to the conviction and sentence of the Applicant was placed before this Court under Sections 362 and 364 of the Criminal Procedure Code.
3. In the aforesaid letter, the Complainant stated that the applicant is remorseful and has agreed to pay up the item he had stolen. The complainant stated that the Applicant is his neighbor and that he did not expect him to be put in prison but he expected him to be slapped with a fine.
4. This Court on its part has perused the Trial Court’s file pursuant to the provisions of Section 362 of the Criminal Code. The record clearly shows that the applicant is a first offender who pleaded guilty. The record shows that he was sentenced to serve the maximum sentence for theft of three (3) years imprisonment.
5. I think the aforesaid sentence was not appropriate considering the fact that the Applicant was a first offender and pleaded guilty on his first appearance in Court



6. In the circumstances, this Court is entitled to interfere with the sentence in exercise of its power of revision. The Applicant has so far served five (5) months in prison out of the three (3) years he was ordered to serve. Had the Trial Senior Resident Magistrate considered the fact that the applicant was a first offender and the fact that he had pleaded guilty, she would have meted out a lenient sentence rather than pronounce the maximum sentence. The appropriate sentence in the circumstance should have been six (6) months imprisonment.
7. I hereby set aside the sentence of 3 years and substitute it with a sentence of six (6) months imprisonment. The new sentence to run from the date of sentence ie, May 23, 2023. Taking into account the new sentence, it is apparent that the applicant has served five (5) months of the sentence leaving a remainder of one (1) month.
8. I hereby order that the Applicant Namely:- Evans Kipkurui be set free from prison to serve the remainder of his sentence of one (1) month on Probation under the supervision of the County Probation Officer, Kericho County.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF OCTOBER, 2023.

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J.K. SERGON

JUDGE

