



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. 296 OF 2018

(CORAM: R. E. ABURILI - J.)

ALBERT OTIENO ONYANGO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being A Sentence Revision against sentence on a Judgment dated 25.2.2016 in Criminal Case No. 1 of 2015 at SIAYA Law Court, before Hon. H. Wandere, PM)

RULING

1. I have considered the request for Sentence Revision application by the applicant **Albert Otieno Onyango**. I have also considered the Probation Report filed on 7/4/2019.
2. I note that the applicant/convict is 40 years old and was convicted in 2016 for the offence of defilement of a girl (child) aged 13 years.
3. He has a disability of his right hand being chopped off when he was fighting with his father. He also has a limping gait. He has 2 children who are young. His wife left him after the conviction and imprisonment.
4. He is said to consume alcohol but polite and that he was reconciled with his father who cut his hand when they met in jail. He has poor social relationship.
5. The victim is opposed to the convict being given non-custodial sentence as he is a violent person and may try to revenge as her home is close to his home.
6. On immediate needs, the Probation Officer finds the convict a liar who claims that he had an accident leading to his hand being cut off yet the truth of the matter is that he fought with his father as a result he lost his hand.
7. That he also lied that he had 4 children yet the social inquiry reveals only 2 children who left with their mother as she could not cope with life without him.
8. Taking into account all the above, despite the physical disability of the applicant who is described as violent, the Probation Report does not make much reference to the offence that took the convict to prison and the trauma exposed to the victim.
9. Defilement of young children deserves deterrent sentences upon conviction.
10. There is no compelling reasons given to persuade this court whether in law or otherwise to revise lawful sentence of 10 years imprisonment meted out on the convict/applicant. The convict is a pathological liar who does not merit discretion.
11. I reject his application for sentence review. The application to sentence review is hereby dismissed. File closed.

Orders accordingly.

Dated, Signed and Delivered in Open Court at Siaya this 12th Day of March 2019.

R.E. ABURILI

JUDGE