

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. 281 OF 2018

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

JOHN OMONDI AUDI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against conviction and sentence on a judgment delivered on 14/9/2012 at the RM's Bondo Law Court, before Hon. B.R. Kipyegon, RM)

RULING

1. The convict, **John Omondi Audi** was on 19.9.2012 convicted for the offence of Burglary and Stealing contrary to **Section 301(1) and 279(B) of the Penal Code**. He was sentenced to serve 9 years and 11 months' imprisonment which was exclusive of the period he had been remanded.
2. During sentencing before the trial court, the Probation Report was filed but it was not in favour of the Applicant/Convict.
3. I note that the convict pleaded guilty to the charges and the property stolen was recovered and restituted to the victim complainant.
4. He has been in prison for now close to 7 years. The victim has no issue with non-custodial sentence since she recovered all her stolen items. This is as per the Probation Officer's Report dated 4/2/2019.
5. His family members speak well of him as a hardworking person. He requires reintegration back into the community. He is remorseful and did not waste the trial court's time by pleading guilty to the charges.
6. Having served a substantial part of his prison term and as there is a positive report of his rehabilitation while in prison, I exercise discretion and allow the Application for Revision of sentence which was nonetheless lawful.
7. In the spirit of Prison Decongestion and to accord the convict an opportunity to be rehabilitated in society, I hereby **order** that the Convict/Applicant shall be released from Prison to perform unpaid Community Service at Bondo Sub-County Hospital for a period of one month from the date of his release. He shall be under supervision of the Siaya County Probation Director.

Orders accordingly.

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

R.E. ABURILI

JUDGE