

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. 4 OF 2019

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

ELIJAH OLOO NGUDHA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(An application seeking Revision of Sentence from Judgment delivered on 15/8/2013 vide Siaya PM's Court in Cr. Case 673 of 2018 before Hon. J.O. Ongondo (PM))

RULING

1. The convict **Elijah Oloo Ngudha** was convicted for the offence of Housebreaking and stealing. He was sentenced to serve 5 years in prison by Hon. J. Ongondo PM, Siaya in Siaya PM Cr. Case No. 673 of 2018 on 15/8/2018. This was never after a full trial.
2. The Applicant is said to have broken into the dwelling house of one Hellen Apondi Were on 6/6/2018 at Karapul, Siaya County and stole one Television LG, one DVD Player LG and one remote control all valued at Kshs. 37,000/= . He was also charged with the alternative court of handling stolen goods contrary to **Section 322(1) and 322(2) of the Penal Code**.
3. The trial record shows that all the stolen property (goods were recovered and produced in court as exhibits).
4. The convict has not appealed against the conviction and sentence. He claims to be a first offender and remorseful for the offence and that he is the sole bread winner for his family. That he has so far reformed and is law abiding. He urges the court to reduce sentence and give him non-custodial sentence.
5. I have considered the Application for Sentence Revision and the Probation Officer's report filed in court on 11/7/2019.
6. The Convict is said to be 34 years old and has now been born again and cleared a Diploma in Evangelism. He was a trained Panel beater. He is a bachelor. His family consider him to be well behaved and that they were shocked to learn that he was involved in crime. He used to live in Kampala Uganda with his sister. He had returned home to care for his aged parents and he was to engage in poultry farming as they have a large farm.
7. The victim of the offence was never traced. He is a Standard 8 drop out and is unmarried. He is remorseful and the community is not opposed to his return at home where he will be engaged on the farm.
8. Having taken into consideration all the above factors and the fact that he is a first offender and promises not to engage in crime and as the stolen GOODS were all recovered, I hereby revise the 5 year prison term and order that the convict Elijah Oloo Ngudha shall be released from prison to serve 18 months' Probation Service under close supervision of Siaya County Probation Officer.

Orders accordingly.

Dated, signed and Delivered at Siaya, this 11th Day of July 2019.

R.E. ABURILI

JUDGE