



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL REVISION NO. 145 OF 2018**

**FRANCIS ONYANGO ODWEYO.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

***(Being an Application for Revision of sentence in Criminal Case No.73 of 2018 delivered***

***on 21.5.2018 at Ukwala SRM's Court by Hon. G. Adhiambo, Senior Resident Magistrate)***

**RULING ON REVISION OF SENTENCE**

1. The Applicant convict herein Francis Onyango Odweyo was on 20/5/2018 convicted and sentenced to serve 5 years by Ukwala SRM for the offence of grievous harm.
2. He has not appealed against the conviction but prays that this court does consider revising his sentence. He claims to be a law abiding citizen and a victim of circumstances. He has a young family which is struggling. On 31/8/2018 this court ordered for a sentence review report from Probation office, Siaya. The report was filed this morning signed by Catherine Amimo, Probation Officer, on 18/9/2019.
3. The report is negative to the extent that the community at large views the convict as a violent and riotous person who vowed to kill his victim who is his paternal uncle and that he abuses alcohol. They believe that prison might help the convict to reform and be rehabilitated. The victim has relocated away from home for fear of attack and is apprehensive of what the convict can do to him.
4. The convict's family fend from casual menial jobs. He has a wife and children who are supported by relatives due to poverty levels.
5. The court has taken all the above into account, noting that the Probation Officer's report is detailed and is not in favour of a non-custodial sentence.
6. The maximum sentence for grievous harm is life imprisonment. The convict was sentenced to serve 5 years imprisonment which is lawful and in my humble view, very lenient, considering the serious injuries sustained by the victim who is a relative to the convict.
7. Apart from the legal aspect of protection of human life, the society expects all of us to respect others and especially elders and a person of an uncle is like a father. It is not expected that the convict could attack and injure his uncle. He should have reported any issue to elders to resolve. There was no provocation.
8. The convict and his family must therefore accept that consequences of crime and live to without him temporarily so that he can reform.
9. Only prison will help the convict to achieve reformation and rehabilitation.
10. In the premises, I find nothing persuasive to make me revise the sentence imposed on the convict and which sentence is lawful and lenient. I decline the application and dismiss it. The convict to serve his full prison term.
11. File closed.
12. Orders accordingly.

**Dated, signed and Delivered at Siaya this 19<sup>th</sup> day of September 2018.**

**R.E. ABURILI**

**JUDGE**