



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDAMA RAVINE (SUB-REGISTRY)

CRIMINAL REVISION NO. 21 OF 2025

**VICTOR
APPLICANT**

KEMEKA.....

VERSUS

**REPUBLIC.....
APPLICANT**

RULING

1. The applicant, **Victor Kemeka**, was charged with the offence of vandalism contrary to section 169(1)(b) of the Penal Code. Particulars are that between 1st and 10th February 2024 at Lebolos in Koibatek Sub-County within Baringo County, he vandalized two metres of service line, five copper earthings and a meter box all valued at Kshs 35,000, the property of Kenya Power and Lighting Company.
2. He now seeks review of sentence vide application dated 15th July 2025. I called for a social inquiry report.

SOCIAL INQUIRY REPORT

3. From the report, the applicant is 38 years old. He sat for KCPE but did not proceed to secondary school owing to financial difficulties in the family. He learnt basic skills of welding and electrical wiring by apprenticeship. From the report, he was tempted to vandalize electric wires belonging to Kenya Power Company Limited. While in prison, he has rehabilitated and decided to lead a lawful life.
6. The applicant was not well known to his local administrator in his rural home or in Eldama Ravine where he resided prior to his arrest, but he is well known at Bondeni Estate where he lived.
7. From his family, only his sister was found for interview. She spoke well of the applicant prior to his arrest. Even though the accused stated that he had a wife who died, his sister said the applicant has no wife or children known to her.
8. From the report, the applicant has served one year and seven months of a ten-year jail term. He admits the offence and prays for leniency. The report further indicates that the applicant had a previous conviction for house-breaking and stealing vide Criminal Case No. 648 of 2020, where he was sentenced to two years' imprisonment.

ANALYSIS AND DETERMINATION

10. I have considered the application for revision, the record of the trial court, the mitigation tendered, and the social inquiry report filed by the Probation and Aftercare Service. I have also considered the nature of the offence, the applicant's personal circumstances, and the objectives of sentencing.
11. The jurisdiction of this Court to revise criminal proceedings is derived from sections 362 and 364 of the Criminal Procedure Code. Under section 362, the High Court may call for and examine the record of any criminal proceedings before a subordinate court for the purpose of satisfying itself as to the correctness, legality, or propriety of any finding, sentence, or order recorded or passed, and as to the regularity of the proceedings. Section 364 further empowers the Court, upon examining such record, to alter or reverse any order or sentence where an illegality, impropriety, or irregularity is found.
12. It is settled law that revisionary powers are supervisory in nature and are not to be invoked as a substitute for an appeal. The Court will not interfere merely because it might have exercised its discretion differently, but only where the

impugned sentence is illegal, manifestly excessive, or founded on a misdirection of law or fact.

13. The applicant was convicted of vandalism contrary to section 169(1)(b) of the Penal Code, which attracts a maximum sentence of ten years' imprisonment. The sentence imposed by the trial court was therefore lawful. The question before this Court is whether, in light of the offender's circumstances and the current *Sentencing Policy Guidelines (2023)*, the sentence is manifestly harsh and whether the objectives of sentencing would be better served by a revision.
14. Vandalism of electrical infrastructure is a grave and prevalent offence. It disrupts essential power supply, endangers lives, and causes significant economic loss to Kenya Power and Lighting Company (KPLC) and electricity consumers. The offence therefore calls for a deterrent sentence to safeguard public utilities and discourage similar acts. (See *Republic v Stephen Mutuku Mutua* [2019] eKLR; *Republic v Patrick Kipruto* [2022] eKLR).
15. Under the *Sentencing Policy Guidelines (2023)*, sentencing must be proportionate, individualized, and responsive to the offender's degree of culpability and the

harm caused. *Part I, section 1.3.1* provides that sentences are imposed to achieve objectives such as retribution, deterrence, denunciation, reconciliation, and reintegration, while *Part V, section 5.1* directs the court to determine the seriousness of the offence by assessing culpability and harm, then consider aggravating and mitigating factors through a structured and transparent approach to achieve a fair and consistent outcome.

16. The Guidelines further emphasize that in reviewing sentences, the Court should evaluate the offender's conduct during incarceration and progress toward rehabilitation, in line with the principles of proportionality and restorative justice.
17. In the present case, the value of the vandalized items was Kshs 35,000. The applicant has served one year and seven months of the ten-year term. The social inquiry report indicates that he has shown remorse, undertaken rehabilitation, and expressed willingness to reintegrate into society.
18. However, the report also reveals that the applicant had a prior conviction for house-breaking and stealing in the year 2020. This aggravates his culpability and demonstrates a tendency toward property-related offences. The Court must

therefore balance his rehabilitative progress against the need to protect public infrastructure and deter similar conduct.

19. In the circumstances, I find that while the ten year sentence was lawful, it was excessive considering the value of the property and the mitigating factors. Nonetheless, a non-custodial or very short term would not adequately serve the deterrent objective given the applicant's criminal history and the wider social impact of vandalism of electricity lines.

20. From the foregoing, pursuant to the powers conferred under section 364 of the Criminal Procedure Code, I am inclined to revise the sentence of ten (10) years' imprisonment and substitute it with a term of seven (7) years' imprisonment. The period already served in remand shall be computed in the sentence above in accordance with section 333(2) of the Criminal Procedure Code.

6. **FINAL ORDERS:** -

- a) Sentence of 10 years imprisonment is hereby revised to 7 years imprisonment.
- b) Period served by applicant in remand to be computed in the sentence above.

Ruling delivered, dated and signed Virtually at Kabarnet this **12th**
Day of **November** 2025.



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RACHEL NGETICH
JUDGE

In the presence of:

- CA, Karanja.
- Ms. Omari for state.
- Applicant.

ORIGINAL