



REPUBLIC OF KENYA



**KENYA LAW**  
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**Bitok v Republic (Criminal Revision E284 of 2025)  
[2025] KEHC 17601 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17601 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E284 OF 2025  
RN NYAKUNDI, J  
NOVEMBER 26, 2025**

**BETWEEN**

**DAVID LAGAT BITOK ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with two counts of the offence of cutting forest produce in a public forest without authority contrary to section 64(1)(a) as read with section 64(1)(a) as read with section 64(2) and section 68(1) of the *Forest conservation and management Act* of 2016. The particulars of the offence are that on the 12<sup>th</sup> day of September, 2025 at around 0200hrs in Ainabkoi beat area at Nabkoi public forest in Kesses Sub-County within Uasin Gishu County, the applicant was found in possession of logging equipment namely; one panga, one axe, one torch and two medium size logs of red cedar tree unlawfully cut forest produce namely two (2) cedar trees estimated to be valued at Kshs. 24,570.17/= the property of Kenya Forest Service without a permit or a management agreement issued by or entered into with Kenya Forest Service.
2. In the second count, the applicant was charged with the offence of introducing logging tools in a state forest contrary to section 64(1)(k) as read with section 64(2) of the *Forest Conservation and Management Act* No. 34 of 2016, the facts being more less the same.
3. The trial court considered the offence and sentenced the applicant to 1 year and he has since approached this court for a sentence review. Consequently, the Probation Officer filed a presentence review report which had the following components:

**Introduction And Sources Of Information**

The information on the inmate has been obtained from the inmate, his uncle, prison records, and the court file.



#### Current Home And Personal Circumstances

The inmate hails from Ngarua village; he worked as a casual labor prior to his arrest. He is separated with his wife, with whom together they had three children. He is the son of the late Mr. Samuel Lagat and Mrs. Esther Tapkime who is elderly. Home environment is conducive for his release.

#### Prison Assessment, Rehabilitation And Re Integration

The short period he has served in prison he has been engaged in farming and he has also benefitted on guidance and counseling. He is grateful that the guidance will assist him back in the community should he be granted a non-custodial sentence.

#### Offender's Attitude Towards Non Custodial Measures

He owns up to his mistakes, he is remorseful and ready to conserve the forest. He has shown willingness to perform community service for the remaining period of his sentence.

#### Recommendations

Your lordship, the inmate regrets his actions and takes responsibility. He has promised to change and be a law abiding citizen. He has shown willingness to perform Community Service, granted he may perform at Soliat Dispensary for the remaining six months 22 days

### Decision

4. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
  - a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
  - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
  - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
  - d) Protection of the community: - where the offender is likely to pose a threat to the community.
  - e) Offender's responsibility to third parties: - where there are people depending on the offender.
5. The *Community Service Orders Act* empowers this Court to order an offender to perform unpaid community service in lieu of imprisonment. This sentencing option is available where the offence carries a maximum term of imprisonment not exceeding three years, or where the Court deems it appropriate that any portion of a longer sentence be served through community-based sanctions. The Act recognizes that certain offenders benefit more from structured rehabilitation within the community than from continued incarceration, particularly where there exists a strong support system and genuine prospects for reformation.
6. Having carefully reviewed the Sentence Review Report and the circumstances of this case, I am satisfied that the Applicant meets the criteria for a community-based sentence. He has already served two months and eight days in custody, during which he has demonstrated good conduct and engaged in farming activities. The report establishes that he has a stable and conducive home environment in Ngarua village where his elderly mother, Mrs. Esther Tapkime, resides. Although separated from his wife, he maintains responsibility towards his three children. At 68 years of age, the Applicant worked as a casual laborer prior to his arrest and requires the opportunity to reintegrate into the community and



support his family. During his incarceration, he has benefitted from guidance and counseling provided by the prison authorities. The Applicant has taken full responsibility for the offence, expressed genuine remorse, and demonstrated his receptiveness to rehabilitative measures by showing willingness to conserve the forest and serve the community

7. Accordingly, I find that the remaining period of six (6) months and twenty-two (22) days is appropriate and shall be served through community service. The Applicant is hereby ordered to perform unpaid community service at Soliat Dispensary under the direct supervision of the officer in charge at the said facility. The supervising officer shall, in liaison with the probation department, submit monthly reports to this Court detailing the Applicant's compliance and progress. Any breach of the conditions of this community service order shall result in immediate cancellation, and the Applicant shall be remanded to serve the remainder of his sentence in custody.

8. It is so ordered.

**SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2025.**

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**R. NYAKUNDI**  
**JUDGE**

