



REPUBLIC OF KENYA



KENYA LAW
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**Rotich v Republic (Criminal Revision E002 of 2025)
[2025] KEHC 17600 (KLR) (20 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17600 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E002 OF 2025
RB NGETICH, J
NOVEMBER 20, 2025**

BETWEEN

DESMOND ROTICH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Desmond Rotich, was charged with the offence of Stealing Stock contrary to Section 278 of the Penal Code. The particulars were that on 15th May, 2024 at around 0600hrs at Likwon village, Baringo North Sub-County within Baringo County, he stole two sheep valued at Kshs.12,000/=, the property of Titus Rowtok Songo and Peter Kasitet.
2. The applicant pleaded guilty, while his co-accused denied the charge. He was convicted and sentenced to three (3) years imprisonment.
3. The applicant now seeks revision of the sentence. On 10th March 2025, when the matter came up for mention, he indicated that he had approximately 15 months remaining to complete the sentence. He prayed to be allowed to serve the remaining period on a non-custodial sentence. The Court directed that a social inquiry report be filed, which was duly submitted on 29th March, 2025.
4. On 21st October 2025, prosecution counsel Ms. Claire Kosgey urged the Court to consider the Social Inquiry Report and give a ruling on the application for revision of sentence.

Social Inquiry Report

5. The report indicates that the applicant completed secondary education with a mean grade of “D” in KCSE and thereafter engaged in farming and casual labour. He is married with two children.



6. While in prison, the applicant has been undertaking a Carpentry Grade 3 course and is awaiting to sit for his final examinations. The report notes that the applicant has demonstrated commitment to rehabilitation and personal development during incarceration.
7. The two complainants stated that a local pastor had approached them requesting that they forgive the applicant for the sake of his two children, who have suffered since their mother left following his incarceration. They confirmed that the stolen sheep were recovered and expressed no objection to the revision of the sentence, provided the applicant reforms and becomes a law-abiding citizen. They noted that his release would be in the best interest of his young children.
8. The applicant's mother also pleaded for his release, stating that she is overwhelmed caring for his two children.
9. The community and the local pastor described the applicant as having been of good conduct prior to the incident. They indicated he can be reintegrated into the community to support his children one aged four years, has not yet started school. The pastor further offered to assist in reconciling the applicant with the complainants.

Analysis And Determination

10. The jurisdiction of this Court to revise criminal proceedings is conferred by Sections 362 and 364 of the Criminal Procedure Code. Section 362 empowers the High Court to call for the record of a subordinate court to satisfy itself as to the correctness, legality, or propriety of any finding, sentence, or order, and the regularity of the proceedings. Section 364 grants the Court authority to alter or reverse a sentence or order where illegality, impropriety, or irregularity is established.
11. The principles governing revision are well established. Revision is a supervisory not appellate jurisdiction. The Court does not interfere simply because it might have imposed a different sentence. It intervenes only where the sentence is illegal, manifestly excessive, irregular, or based on a misdirection. (See Republic v James Kiarie Mutungei [2019] eKLR; Republic v Mohammed Abdow Mohammed [2013] eKLR.)
12. In reviewing sentences, the Court is guided by the Sentencing Policy Guidelines, 2023, particularly Part V and Section 5.1, which emphasize proportionality, rehabilitation, restorative justice, reconciliation, and the use of non-custodial measures where appropriate especially for first offenders with strong reintegration prospects.
13. The applicant is a first offender with a previously clean record. The complainants recovered their stolen livestock and do not oppose his early release. The applicant's two young children remain vulnerable in his absence. He has taken meaningful steps toward rehabilitation by pursuing a Carpentry Vocational Course while in prison, which reflects efforts at personal reform and future reintegration.
14. Considering the period already served, the positive social inquiry report, the victims' position, the applicant's ongoing rehabilitation through vocational training, and the objectives of sentencing including rehabilitation, reparation, and restorative justice, I am satisfied that this is an appropriate case for the exercise of the Court's revisionary jurisdiction.
15. Final Orders
 - a. The sentence of three (3) years imprisonment imposed on the applicant is hereby revised. The applicant shall serve the remaining period of his sentence under probation.



- b. The applicant to be supported by prison authorities and family to sit for carpentry training examination.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 20TH OF NOVEMBER 2025.

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RACHEL NGETICH

JUDGE

In the presence of:

Court Assistant – Elvis

Ms.Bartilol for State

Applicant

