



REPUBLIC OF KENYA



KENYA LAW
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**Bitok v Republic (Criminal Revision E289 of 2025)
[2025] KEHC 17928 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17928 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E289 OF 2025
RN NYAKUNDI, J
DECEMBER 3, 2025**

BETWEEN

DAVID LAGAT BITOK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged of cutting forest produce in a public forest without authority contrary to Section 64(1)(a) as read with Section 64(2) and Section 68(1) of the *Forest Conservation and Management Act* of 2016. The brief facts of the particulars of the offence are that on the on the 12th day of September, 2025 at around 0200hrs in Ainabkoi beat area at Nabkoi public forest in Keses Sub county within Uasin Gishu County, 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. He pleaded guilty to the offence convicted and sentenced to a fine of Kshs. 50,000/= in default 6 months' imprisonment on 16th September 2025.
2. The Applicant was charged with a second count for 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* 34 of 2016 Laws of Kenya. The brief facts of the particulars of the offence are that on the on the 12th day of September, 2025 at around 0200hrs in Ainabkoi beat area at Nabkoi public forest in Keses Sub county within Uasin Gishu County, was found unlawfully introducing logging tools namely; one panga, one axe and one torch to the State forest without permit from Kenya forest service. He pleaded guilty to the offence convicted and sentenced to a fine of Kshs. 50,000/= in default 6 months' imprisonment for the first month and 6 months for the second count on 16th September 2025.



3. As a consequence of that the Probation Officer filed a presentence review report which had the following components:

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.

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.

1. Further to the aforementioned, the *Community Service Orders Act* makes it possible for courts to issue an order requiring the offender to perform community service. This option is available to court when the offender is convicted of an offence punishable by imprisonment for a term not exceeding three years or imprisonment for a term exceeding three years but for which the court determines that any of that term as would be appropriate be served within the community on unpaid public works.

2. Having gone through the facts of the present case and particularly the charge in question, the circumstances fit the legal framework of the Community Service Act as an alternative sentence to imprisonment. Consequently, the effective measure as recommended by the Sentence Review Report is to have the applicant serve the remainder of his sentence i.e. 6 months at Soliat Dispensary. Monthly reports shall be filed in court by the supervisor of the applicant through the probation officer. The essence of it is to achieve the effectiveness of this non-custodial sentence and that any breach of any conditions by the applicant shall



attract cancellation of the community service order and have the sentence reverted to custodial sanctions.

3. It is so ordered.

SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 3RD DAY OF DECEMBER, 2025.

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R. NYAKUNDI

JUDGE

