



**Ouma v Republic (Criminal Revision E042 of 2025)
[2026] KEHC 3582 (KLR) (12 March 2026) (Revision)**

Neutral citation: [2026] KEHC 3582 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
CRIMINAL REVISION E042 OF 2025**

OA SEWE, J

MARCH 12, 2026

BETWEEN

STEVEN OUMA APPLICANT

AND

REPUBLIC RESPONDENT

*(From the sentence passed in Criminal Case No. E008 of 2024 in the
Magistrate’s Court at Mbita by Hon. M. A. Agutu, PM, on 16th June 2021)*

REVISION

1. The applicant herein, Steven Ouma, was charged with the offence of office breaking and committing a felony, contrary to Section 306(a) of the Penal Code, Cap 63 of the Laws of Kenya. It was alleged that on an unknown date and time in the month of August 2023 at Wamai Primary School, in Mfangano South Location, Suba Central Sub-County within Homa Bay County, he broke and entered into the office of Wamai Primary Scholl with intent to commit a felony therein, namely, stealing. In the alternative, the applicant was charged with two separate counts of handling property, contrary to Section 322(1) of the Penal Code.
2. The applicant admitted the Main Charge and was sentenced to two years’ imprisonment in respect thereof. This was after the learned magistrate called for a Pre-Sentence Report and found that the applicant’s circumstances were not well suited for non-custodial sentence. Accordingly, the applicant has been in custody since 7th February 2024.
3. The application was placed before the Court pursuant to its supervisory jurisdiction under Article 165 of *the Constitution*. Sub-articles (6) and (7) of Article 165 of *the Constitution* state:
 - (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.



- (7) For purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may me any order or give any direction it considers appropriate to ensure the fair administration of justice.
4. Accordingly, Section 362 of the Criminal Procedure Code provides that:
- “The High court may call for and examine the records of any criminal proceedings before any 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 any proceedings of any such subordinate court.”
5. Further to the foregoing, Section and 364(1)(b) of the Criminal Procedure Code stipulates that:
- “In the case of a proceeding in subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may ... in the case of any other order other than an order of acquittal, alter or reverse the order.”
6. Thus, the record of the lower court was called for pursuant to the aforementioned provisions and upon perusal thereof it is manifest that the applicant may have served his sentence by now, although the indication in the Schedule forwarded herein shows that he was still held at Kibos Main Prison. It is accordingly ordered that, if he is still in prison, his term be reduced to the period served; and that he be released forthwith unless otherwise lawfully held.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT HOMA BAY THIS 12TH DAY OF MARCH 2026

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OLGA SEWE
JUDGE

