



**Cheruiyot v Republic (Criminal Revision E030 of 2024)  
[2024] KEHC 3939 (KLR) (23 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3939 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E030 OF 2024  
RN NYAKUNDI, J  
APRIL 23, 2024**

**BETWEEN**

**DANIEL CHERUIYOT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged with the offence of stealing contrary to section 268 as read with section 275 of the *Penal code*. The particulars of the offence are that on the 12<sup>th</sup> day of January, 2024 at Unga Limited in Turbo Sub-County within Uasin Gishu county, stole 1 Jeck, 8 Spanners, 1 wheel spanner and 1 Canvas all valued Kshs. 13,800/= the property of William Kipchumba.
2. The applicant pleaded guilty to the offence before Hon. P.N. Areri on 15<sup>th</sup> January, 2024 and as a consequence, he was convicted on his own plea of guilty and sentenced to serve 2 years imprisonment.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the *Criminal Procedure Code* as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6) (a)&(b) of the *Constitution*.
4. The applicant seeks a sentence review. He prays that he may be allowed to serve a non-custodial sentence. The probation officer filed a report on 11<sup>th</sup> April, 2024. The Probation report is responsive. The Probation officer recommended the applicant for a non-custodial sentence.
5. 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.
6. I have considered the offence in question and the aggravating factors. The sentencing objectives in Kenya have been captured in the Sentencing guidelines 2023 to be the following: -
- i. Retribution: to punish the offender for his/her criminal conduct in a just manner.
  - ii. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
  - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
  - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
  - v. Community protection: to protect the community by incapacitating the offender.
  - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
  - vii. Reconciliation: To mend the relationship between the offender, the victim and the community.
  - viii. Reintegration: To facilitate the re-entry of the offender into the society.
7. I have considered the said charge and the aforementioned factors and I am of the view that the applicant herein is a best fit for a non-custodial sentence and he shall proceed to serve the same for the remaining period. A community service order is therefore efficient for the remaining period. He is directed to serve the same for 1 year 9 months at Eldoret central police station. During this period, the probation officer is obligated to file monthly reports in court in ensuring compliance of the sentence and its effectiveness.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 23<sup>RD</sup> DAY OF APRIL 2024.**

.....

**R. NYAKUNDI**

**JUDGE**

