



REPUBLIC OF KENYA



**Kimutai v Republic (Revision Case E027 of 2023)  
[2023] KEHC 22101 (KLR) (22 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 22101 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
REVISION CASE E027 OF 2023  
HM NYAGA, J  
AUGUST 22, 2023**

**BETWEEN**

**JOEL KIRUI KIMUTAI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This matter has been brought to me under the Prisons Decongestion Exercise being undertaken by this court.
2. The Applicant Joel Kirui Kimutai was convicted for the offence of Stealing by Servant contrary to Section 281 of the *Penal Code* and sentenced to serve 1-year imprisonment on March 21, 2023.
3. He has so far served 5 months in prison.
4. In the Sentence Review Report filed on August 2, 2023 Probation Officer, Miriam Ngochoi recommends that he should remain in prison and serve the entirety of his custodial sentence.
5. According to the said Report the convict is a casual labourer and prior to his arrest he was staying at home with his wife and five of his children. He has not been visited by any of his family members while in custody. However, his wife indicated readiness to accept him back so he can continue to fend for his family upon his release. The prison officers state that the convict has been performing farming activities while in prison. The Applicant has not expressly demonstrated remorse and is pleading for a chance to serve a non- custodial sentence. However, the convict has a history of regular change of residence. Additionally, he portrays a cunning character and the Probation Officer believes that if he is set free, this could compromise his compliance with non- custodial orders and therefore, does not recommend him for review.



6. This exercise is not just about decongesting the prisons. It is also meant to give convicts who show signs of reform a second chance in life. In this case the report is not favourable to the convict.
7. In light of the above, I decline to grant the plea for review. I order that the convict, Joel Kirui Kimutai, serves the remainder of the prison sentence.

**DATED, SIGNED & DELIVERED AT NAKURU THIS 22<sup>ND</sup> AUGUST, 2023.**

**H.M. NYAGA**

**JUDGE**

In the presence of:

Ms Murunga for state

Applicant

