



REPUBLIC OF KENYA



**Kipkirui v Republic (Revision Case E037 of 2023)
[2023] KEHC 22123 (KLR) (22 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 22123 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E037 OF 2023
HM NYAGA, J
AUGUST 22, 2023**

BETWEEN

WESLEY KIPKIRUI 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 Wesley Kipkirui was convicted for the offence of Stealing contrary to section 258 as read with section 275 of the [Penal Code](#) and sentenced to pay a fine of Kshs. 50,000 and in default serve 1-year imprisonment on May 30, 2023.
3. He has so far served about 4 months in prison.
4. In the Sentence Review Report filed on August 2, 2023 the Community Service Officer, Dorothy Bett recommends community service.
5. According to the said Report the convict intends to go back home and live with his family who will provide him with basic needs until he finds a job. He enjoyed a cordial relationship with them prior to his arrest and they all believe he has learnt his lesson and can be released. The prison officers vouched for his release stating that he has demonstrated a positive change after undergoing counselling geared towards behavioural change. The area chief also vouches for him and believes he is deserving of a non-custodial sentence. The applicant is remorseful and is willing to serve a non-custodial sentence.
6. In light of the above and with the view to decongest the prison, I hereby exercise judicial discretion and order the convict/applicant be released from prison forthwith and be placed on Community Service



at Baringo Primary School under the supervision of the school's duty officer for the remainder of his sentence.

DATED, SIGNED & DELIVERED AT NAKURU THIS 22ND AUGUST, 2023.

H.M. NYAGA

JUDGE

In the presence of:

C/A Jeniffer

Ms Murunga for state

Applicant

