



REPUBLIC OF KENYA



**KENYA LAW**  
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**Wamushiru v Republic (Revision Case E019 of 2023)  
[2023] KEHC 22119 (KLR) (22 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 22119 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
REVISION CASE E019 OF 2023  
HM NYAGA, J  
AUGUST 22, 2023**

**BETWEEN**

**JAMES MUHIA WAMUSHIRU ..... 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 James Muhia Wamushiru was convicted for the offence of Stealing Stock contrary to Section 278 of the *Penal Code* and sentenced to serve 3 years imprisonment on 2<sup>nd</sup> March 2023.
3. He has so far served about 5 months in prison.
4. In the Sentence Review Report filed on 2<sup>nd</sup> August 2023 the Probation Officer, Newton Majale recommends the convict should continue serving his custodial sentence.
5. According to the said Report the convict is a class 7 dropout, he dropped out because of health issues and later engaged in farming. He attributed the commission of the offence to financial constraints and hunger. He intends to go back home and live with his parents who will provide him with basic needs. None of his family members visited him at the prison. The complainant is still bitter about the offence given it was not the first time the inmate stole from him. The area chief also states that he is a habitual thief with various issues solved locally to no avail, he fears his early release will lead to him being lynched by angry members of the community The Applicant is remorseful and is willing to serve a non- custodial sentence.
6. In light of the above, I hereby decline to grant the plea for review. I order that the convict James Muhia Wamushiru serve the remainder of his sentence in prison.



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

**H.M. NYAGA**

**JUDGE**

In the presence of:

C/A Jeniffer

Ms Murunga for state

Applicant

