



REPUBLIC OF KENYA



**KENYA LAW**  
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**Otieno v Republic (Criminal Revision E010 of 2022)  
[2022] KEHC 12832 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12832 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL REVISION E010 OF 2022  
RE ABURILI, J  
AUGUST 8, 2022**

**BETWEEN**

**EDWIN WANDERI OTIENO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for revision of sentence, arising from conviction  
and sentence in Ukwala PM's Court in Criminal Case No. 89 of  
2020 on 4/11/2020 by Hon. C.I. Agutu, Senior Resident Magistrate)*

**RULING**

1. The convict Edwin Wanderi Otieno was convicted and sentenced to serve three (3) years imprisonment for the offence of Housebreaking contrary to Section 304 of the *Penal Code* and Stealing contrary to Section 279 (b) of the Penal Code. He pleaded not guilty to the charge. He is 30 years old. He appealed and his appeal was dismissed.
2. I have considered the Sentence Review Report for purposes of prison decongestion as filed by Geoffrey W. Mutoka on 2/8/2022. He has already served 1 year and 6 months imprisonment. The convict insists that he did not commit the offence but there is a confession written by him in his own handwriting which the trial court relied on to convict him and the stolen items were recovered from him. He is however willing to serve community service.
3. The convict is said to have been attempting to escape from prison and that he changes his name in the labour card to hide his identity. He is married with three children. The offence took place in Ugunja and that he insists on returning there if released as that is where he earns his living from. He is a resident of Gem Sub County, East Gem Location, Lihanda Sub location, Luanda village. His father is a known driver.



4. Although the Probation Officer does not recommend non-custodial sentence, the offence committed is not heinous and the convict can still benefit from community service under supervision and should he reoffend or fail to abide by the non-custodial conditions, he shall be rearrested and recommitted to prison.
5. For all the above reason, I hereby order that the convict Edwin Wanderi Otieno shall be released from prison to serve non-custodial sentence of community service at Ugunja Police Station for a period of twelve (12) months from the date of his release and not to reoffend. He shall be supervised by the Office Incharge Ugunja Police Station and Probation Officer, Ugunja.
6. This file is closed.
7. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF AUGUST, 2022**

**R.E. ABURILI**

**JUDGE**

