



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
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**Nyabera v Republic (Criminal Revision E030 of 2022)  
[2022] KEHC 11101 (KLR) (4 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 11101 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL REVISION E030 OF 2022**

**JN KAMAU, J  
AUGUST 4, 2022**

**BETWEEN**

**DUKE YUNGO NYABERA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was convicted on his own plea of guilty of the offence of burglary contrary to Section 279(b) of the *Penal Code* Cap 63 (Laws of Kenya). He was also charged with alternative charge of handling stolen property contrary to section 322(1) (2) of the *Penal Code* Cap 63 (Laws of Kenya). He was arrested on 28/7/2020 and arraigned in court on 30/7/2021. He was sentenced to serve three (3) years imprisonment on 23/2/2021. Taking into account the period from the date of his arrest to the day he was sentenced in line with Section 333(2) of the *Criminal Procedure Code* Cap 75 (Laws of Kenya), he ought to have completed his sentence on 23/7/2022 as he stayed in custody for seven (7) months. Although the Report of Ngetich Nicholas Kibet Probation Officer that was filed on 1/8/2022 recommends his release on Community Service Order at Kineni Chief's Offices, the Applicant has already completed his sentence. It is hereby directed that the Applicant be and is hereby released from custody forthwith unless he be held for any other lawful cause. Orders accordingly.

**DATED AND DELIVERED AT NYAMIRA ON THIS 4<sup>TH</sup> AUGUST 2022**

**J. KAMAU**

**JUDGE**

