



REPUBLIC OF KENYA



KENYA LAW
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**Makoki v Republic (Criminal Revision E020 of 2022)
[2022] KEHC 11120 (KLR) (3 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 11120 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E020 OF 2022**

**JN KAMAU, J
AUGUST 3, 2022**

BETWEEN

EVERLINE MAKOKI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with dealing with alcoholic drinks without a licence contrary to section 7 (1)(b) as read with section 7 (1) (b) as read with section 34 (a) of the *Alcoholic Drinks Control Act* No 4 of 2010. He was fined Ksh 50,000/- in default to serve twelve (12) months imprisonment. Section 28(7) of the *Penal Code* provides that the default imprisonment for a fine exceeding Kshs 15,000/- but not exceeding Ksh 50,000/- is six (6) months. The applicant therefore served an illegal and unlawful sentence that had no basis in law. As he has already completed his sentence, the court cannot review the sentence. However, in the unlikely event that the applicant is still in custody, it is hereby directed that he be released from prison unless he be held for any other lawful cause. Orders accordingly.

DATED AND DELIVERED AT NYAMIRA ON THIS 3RD AUGUST 2022

**J. KAMAU
JUDGE**

