



**Onyapu v Republic (Criminal Revision E045 of 2022)
[2022] KEHC 12583 (KLR) (2 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12583 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E045 OF 2022**

**JN KAMAU, J
AUGUST 2, 2022**

BETWEEN

JOSEPH OKIRING ONYAPU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with the offence of burglary contrary to Section 304 (2) and stealing contrary to Section 279 (b) of the *Penal Code* Cap 63 (Laws of Kenya). He was also charged with an alternative charge of handling stolen property contrary to Section 322 (2) of the *Penal Code*. He was arrested on 6/3/2021 and arraigned in Court on 8/3/2022 when he pleaded guilty to the charge. He was convicted and sentenced to four (4) years imprisonment on 8/3/2021. He has so far spent one (1) year four (4) months and thirty (30) days in prison. His early release date as per Prisons is 8/11/2023. The Report by Benard O. Musitia Probation/Community Service Officer that was filed on 29/7/2022 recommends the release of the Applicant on a non-custodial sentence on probation. It was the view of this Court that the Applicant had only served a short period of his sentence of four (4) years. I therefore decline to review the sentence and direct that he continues to serve his sentence in custody. He is at liberty to file a fresh application at the appropriate time for consideration. Orders accordingly.

DATED AND DELIVERED AT BUSIA ON THIS 2ND DAY OF AUGUST 2022.

J. KAMAU

JUDGE

