



**Wandera v Republic (Criminal Revision E044 of 2022)
[2022] KEHC 12283 (KLR) (2 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12283 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E044 OF 2022
JN KAMAU, J
AUGUST 2, 2022**

BETWEEN

DOUGLAS WANDERA APPLICANT

AND

REPUBLIC RESPONDENT

(ORIGINALLY CR CASE NO E478 OF 2021)

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(1)(2) of the *Penal Code*. He was arrested on 7/2/2021 and arraigned in court on 10/2/2021, he changed the plea and pleaded guilty and was convicted for the offence of burglary and stealing. He was sentenced to three (3) years imprisonment which was to run from 10/2/2021. The report by Fredrick Otieno probation/community service officer that was filed on 29/7/2022 recommends that he be released to serve a non-custodial order on account of the fact that the local administration and community were not opposed to his release and to serve the same at Kingadole chief's office. This court noted from the pre-sentencing report that the applicant was not suitable for a non-custodial sentence as he was a repeat criminal offender. At the time he was sentenced on 10/3/2021, he was serving a one (1) year sentence. He had spent one (1) year and seven (7) months in custody. His early date of release by prisons was 8/10/2023. In view of the fact that the applicant had only served a short part of his sentence and he was a repeat criminal, I hereby decline to review his sentence. I hereby direct that the applicant continues serving his sentence in custody. He will be at liberty to make a fresh application at the appropriate time for consideration by the court. Orders accordingly.

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



J. KAMAU
JUDGE

