



**Adiye v Republic (Criminal Revision E038 of 2022)  
[2022] KEHC 10964 (KLR) (1 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 10964 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL REVISION E038 OF 2022  
JN KAMAU, J  
AUGUST 1, 2022  
ORIGINALLY CR CASE NO E1957 OF 2021**

**BETWEEN**

**GODWIN ADIYE ALIAS EDU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with burglary and stealing contrary to Section 304 (2) of the *Penal Code* Cap 63 (Laws of Kenya). He was also charged with an alternative charge of handling stolen goods contrary to Section 322 (1) (2) of the *Penal Code*. He was arrested on 18/6/2021 and on 23/6/2021, he admitted the facts of the case. He was sentenced to three (3) years imprisonment on 28/7/2021. His earliest date of release as per the Prisons is 28/7/2022. According to the Report of Benard O. Musitia, Probation/Community Service Officer filed on 29/7/2022, the recommendation was that a non-custodial sentence was not tenable as he had only served one (1) out of three (3) years imprisonment, a position this Court agree with. Accordingly, I hereby decline to renew the sentence and direct that the Applicant continues to serve his sentence in custody. He is at liberty to file a fresh application at the appropriate time for consideration by the Court. Orders accordingly.

**DATED AND DELIVERED AT BUSIA ON THIS 1<sup>ST</sup> DAY OF AUGUST 2022.**

**J. KAMAU**

**JUDGE**

