



REPUBLIC OF KENYA



**KENYA LAW**  
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**Musumba v Republic (Criminal Revision E080 of 2022)  
[2022] KEHC 11009 (KLR) (1 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 11009 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL REVISION E080 OF 2022**

**JN KAMAU, J  
AUGUST 1, 2022**

**BETWEEN**

**ABRAHAM MUSUMBA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with the offence of obtaining money by false pretence contrary to Section 313 of the *Penal Code* Cap 63 (Laws of Kenya) and possession of papers as forgery contrary to Section 367 (a) of the Penal Code. He was arraigned in Court on 20/12/2019 when he pleaded not guilty to the charge and admitted to bail. From the records, he does not appear to have been released on bail. He was convicted on both counts and sentenced to three (3) years imprisonment on each count to run from 20/12/2019. Both sentences were to run concurrently. According to Prisons, the early date of release is 20/12/2023. The Report by Austine Adewa Probation/Community Service Officer that was filed on 29/7/2022 has recommended that the Applicant serves community service order at Makale Primary School. Having noted that the three (3) years imprisonment was to commence on 20/12/2019 and taking into account the remission of his sentence, the Applicant ought to have completed his sentence on 19/1/2021. He has been serving an illegal sentence. Accordingly, I hereby direct that the Applicant be and is hereby released forthwith unless he be held for any other lawful cause. Orders accordingly.

**DATED AND DELIVERED AT BUSIA ON THIS 1ST DAY OF AUGUST 2022.**

**J. KAMAU  
JUDGE**

