



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Mwima v Republic (Criminal Revision E066 of 2022)
[2022] KEHC 11049 (KLR) (1 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 11049 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E066 OF 2022**

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

BETWEEN

BADIRU MWIMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with the offence of stealing contrary to Section 268 as read with Section 275 of the *Penal Code* Cap 63 (Laws of Kenya). He had also been charged with the alternative charge of handling stolen property contrary to Section 322 (1) (2) of the Penal Code. He was arrested on 15/1/2022 and arraigned in Court where he denied the charges. He admitted to the facts on 1/3/2022 and was convicted. He was fined Kshs. 20,000/- or in default to serve one (1) year imprisonment on 15/3/2022. According to Section 28 (2) of the Penal Code, a fine exceeding Kshs. 15,000/- but not exceeding Kshs. 50,000/- attracts a default imprisonment of six (6) months. Taking remission of the sentence into consideration, the Applicant ought to have been in prison for four months. The Report by Fredrick Otieno Probation/Community Service Officer that was filed on 29/7/2022, it has not recommended the Applicant's release on community service order as he was a foreigner. However, bearing in mind that he had already served four and a half (4½) years in custody, he had already finished his sentence, it is hereby directed that the Applicant be and is hereby released from custody forthwith unless he be held or any other lawful cause. Orders accordingly.

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

J. KAMAU

JUDGE

