



REPUBLIC OF KENYA



KENYA LAW
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**Kiplagat v Republic (Criminal Appeal E047 of 2022)
[2025] KEHC 7817 (KLR) (4 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7817 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL APPEAL E047 OF 2022
RN NYAKUNDI, J
JUNE 4, 2025**

BETWEEN

DANIEL KIPCHUMBA ALIAS PETER KIPLAGAT APPELLANT

AND

REPUBLIC RESPONDENT

RULING

Representation:

Ms. G Kirenge for the state

1. The appellant before court was granted leave to file an appeal out of time vide this court's ruling dated 4th of March 2022. The appeal was subsequently filed on 21st March of 2022, raising various grounds on review of sentence. However, the appeal remained inactive since then. At the trial court the appellant was charged, convicted and sentenced for a period of 7 years for the offence of stealing stock contrary to section 278 of the penal code. The sentence was imposed on 5th of February 2020, from which date the sentence has been running. There is nothing presented and record to bar the appellant from enjoying remission of one third of the sentence as contemplated under section 246 of the *prisons Act*. Which provide as follows:
2. “(1) Convicted criminal prisoners sentenced to imprisonment, whether by one sentence or consecutive sentences, for a period exceeding one month, may by industry and good conduct earn a remission of one-third of their sentence or sentences.

Provided that in no case shall -

- (i) any remission granted result in the release of a prisoner until he has served one calendar month;
- (ii) any remission be granted to a prisoner sentenced to imprisonment for life or for an offence under section 296(1) of the Penal code or to be detained during the President's pleasure.



- (2) For the purpose of giving effect to the provisions of subsection (1), each prisoner on admission shall be credited with the full amount for remission to which he would be entitled at the end of his sentence if he lost no remission of sentence.
 - (3) A prisoner may lose remission as a result of its forfeiture for an offence against prison discipline, and shall not earn any remission in respect of any period-
 - (a) spent in hospital through his own fault; or
 - (b) while undergoing confinement as a punishment in a separate cell.
 - (4) A prisoner may be deprived of remission -
 - (a) where the Commissioner considers that it is in the interests of the reformation and rehabilitation of the prisoner;
 - (b) where the Cabinet Secretary for the time being responsible for Internal security considers that it is in the interests of public security or public order.
 - (5) Notwithstanding the provisions of subsection (1) of this section, the Commissioner may grant a further remission on the grounds of exceptional merit, permanent ill-health or other special ground. [[Act No. 25 of 2015](#)].”
3. Given the sentence imposed by the trial court of 7 years, considering the period served by the appellant and the provisions of section 246 of the prison’s Act the applicant has already served the sentence to completion. He should therefore be released forthwith unless and otherwise lawfully held
 4. The file is hereby marked as closed
 5. Orders accordingly

DATED AND SIGNED AT ELDORET THIS 4TH DAY OF JUNE, 2025

R. NYAKUNDI

JUDGE

