



**Kibet v Republic (Miscellaneous Criminal Application
E009 of 2025) [2025] KEHC 10105 (KLR) (14 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10105 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
MISCELLANEOUS CRIMINAL APPLICATION E009 OF 2025**

RPV WENDOH, J

JULY 14, 2025

BETWEEN

SAMMY KIBET APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Sammy Kibet, was convicted for the offence of house breaking and stealing contrary to section 304(1) and 279 (b) of the [Penal Code](#). He was sentenced to serve five (5) years imprisonment.
2. He has filed an application seeking review of his sentence so that he can serve sentence on probation. His grounds for the review are that he has undergone courses in Theology while in prison and he is reformed. He pleads with the court to serve the balance of sentence on probation so that he can be reintegrated in society.
3. Mr. Suter, Prosecution Counsel, opposed the application for reasons that it has no legal basis, that the prison has provision for remission of sentences and that is what he should pursue.
4. I have considered the said application. The accused person has the right to seek review of his sentence under Section 362 of the CPC. Sentencing is the discretion of the court and so an accused cannot direct the court on what sentence to impose.
5. In this case, after conviction, the court asked for a presentence report which was prepared by the Probation Officer. In the report, it was disclosed that the applicant was not a first offender but a repeat offender having been convicted in criminal case no. 74 of 2020 for the offence of stealing; He was sentenced to three (3) years imprisonment. The report from the parents and community was very negative to the effect that he was a notorious thief and keeps bad company. His place of abode was not established. Bearing all the above in mind, and the fact that the applicant has no fixed abode, he



cannot be supervised on probation and in my view the best place to serve sentence is in prison. The application is hereby dismissed.

DATED, SIGNED AND DELIVERED ON 14TH DAY OF JULY, 2025

HON. R. WENDOH

JUDGE

Ruling delivered in presence of;

Mr. Suter for the State /Respondent

Applicant – present

Juma/Hellen- Court Assistants

