



**Maganya v Republic (Criminal Revision 229 of 2024)
[2024] KEHC 10912 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10912 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 229 OF 2024
DR KAVEDZA, J
SEPTEMBER 17, 2024**

BETWEEN

JACKLINE OBUTU MAGANYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This file was brought before me for the decongestion exercise pursuant to the Chief Justice’s memo dated 7/12/2022, which provides that inmates who are serving three (3) years imprisonment or less, or those serving long sentences but have a balance of three (3) years or less may be considered for non-custodial sentences.
2. I have gone through the file and noted that applicant was convicted and sentenced by the trial court on three counts. They include; forgery contrary to section 345 as read with section 349 of the *Penal Code* (1 ½ years’ imprisonment), making a document without authority contrary to section 357 (a) of the *Penal Code* (5 years imprisonment) and handling stolen goods contrary to section 322 (2) of the *Penal Code* (3 years imprisonment). The sentences were to run concurrently.
3. According to the Recommendation Report from Prison dated 7th August 2024, the applicant has 2 years and 7 months left to complete her sentence. The Report also indicates that the Applicant has been of good behaviour since her admission to prison.
4. A probation report was also filed with respect to the applicant. According to the said report, the applicant has been receptive to rehabilitation while in prison and she regrets the circumstances that led her to committing the offence.
5. While the Probation Report highlights the Applicant’s good behaviour, I must consider the length of the sentence already served. The Applicant was convicted of multiple serious offenses, for which



she received a combined sentence of five years, to run concurrently. As of now, the Applicant has only served a portion of her sentence, with 2 years and 7 months remaining.

6. Given the nature of the offenses and the fact that the Applicant has served a relatively short period of her custodial sentence, I am not convinced that early release is appropriate at this stage. The balance of the sentence must be served to adequately reflect the gravity of the offenses and the need for continued deterrence and accountability.
7. Accordingly, I decline to release her under the decongestion exercise. The Applicant shall continue to serve the remainder of her sentence in custody.

Orders accordingly.

RULING DELIVERED THIS 17TH DAY OF SEPTEMBER 2024.

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D. KAVEDZA

JUDGE

