



**Kimutai v Republic (Criminal Revision E158 of 2024)  
[2024] KEHC 16513 (KLR) (2 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16513 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E158 OF 2024  
RE ABURILI, J  
DECEMBER 2, 2024**

**BETWEEN**

**HILLARY KIMUTAI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Tamu Senior  
Principal Magistrate's Court Criminal Case No. E382 of 2023)*

**RULING**

1. On 8<sup>th</sup> January 2024 the convict Hillary Kimutai was sentenced to serve 2 years' imprisonment for the offence of stealing 20kg of Irish potatoes. He is said to be a habitual thief whose communal ties are loose and unsuitable for non-custodial sentence.
2. He pleaded guilty to the charge. He was non adherence to TB medication routine which was dangerous to other family members. He has been in prison for now 10 months. He cannot benefit from prison decongestion because is a previous convict in *Tamu SPM Criminal Case No. 11 of 2020* where he was sentenced to serve 18 months' imprisonment.
3. The convict shall complete his sentence in prison and complete TB treatment.
4. Signal to issue. File closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 2<sup>ND</sup> DAY OF DECEMBER, 2024.**

**R. E. ABURILI**

**JUDGE**

