



**Republic v Cheruiyot (Criminal Revision E151 of 2024)
[2025] KEHC 7440 (KLR) (27 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7440 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E151 OF 2024**

JK SERGON, J

MAY 27, 2025

**ORIGINALLY CRIMINAL CASE NO. E2007 OF 2024 AT
KERICHO REPUBLIC V EVERLYNE CHERONO CHERUIYOT**

BETWEEN

REPUBLIC PROSECUTION

AND

EVERLYNE CHERONO CHERUIYOT APPLICANT

RULING

1. Everlyne Cheronon Cheruiyot the Applicant was convicted for the offence of being in possession of alcoholic drinks for sale without a licence Contrary to Section 7(1)(b) as read with section 62 of the *Alcoholic Drinks Control Act* No 4 of 2010 in Criminal Case No E2007 of 2024 by the Chief Magistrates Court at Kericho and sentenced to a fine of Kshs 60,000/= in default to serve 12 months imprisonment.
2. The Deputy Registrar of this court has placed the aforesaid file before this Court for perusal and examination pursuant to the Provisions of Sections 362 and 364 of the *Criminal Procedure Code*. The record shows that the Applicant was sentenced to a fine of Kshs 60,000/= in default to serve 12 months imprisonment for being in possession of 20 litres of busaa.
3. The record does not show that the Applicant was given a chance to mitigate before the sentence was meted out. It is also apparent that the value of the busaa was not stated.
4. This Court has formed the opinion that the sentence meted out in this case is harsh and excessive in the circumstances.
5. This Court is therefore entitled to interfere with the aforesaid sentence. It is the opinion of this court that the correct sentence in this case should have been a fine of not more than Kshs 20,000/=.



6. In the end, the order sentencing the Applicant to a fine of Kshs 60,000/= is set aside and is substituted with a fine of Kshs 20,000/= in default to serve Seven (7) months imprisonment.
7. The record shows that the applicant has been serving the default sentence of 12 months since 22nd July, 2024. It is apparent that the Applicant has so far served 10 months. The Seven (7) months default sentence is to run from the date of sentence i.e. 22nd July, 2024.
8. It is obvious that the Applicant namely:- Everlyne Cheron Cheruiyot has served the default sentence meted out by this Court in full. Therefore, Everlyne Cheron Cheruiyot should be released forthwith unless lawfully held.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 27TH DAY OF MAY, 2025.

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J.K. SERGON

JUDGE

