



**Mogere v Republic (Criminal Revision E088 of 2024)
[2024] KEHC 6553 (KLR) (30 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6553 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E088 OF 2024**

WA OKWANY, J

MAY 30, 2024

BETWEEN

SAMSON ONSONGO MOGERE APPLICANT

AND

REPUBLIC RESPONDENT

(From the original Conviction and Sentence in the Senior Principal Magistrates' Court at Keroka, Criminal Case No. MCCR E297 of 2023 by Hon. B.M. Kimtai, Senior Resident Magistrate on 18th October 2023)

RULING

1. The Applicant was convicted on his own plea of guilty for the offence of burglary contrary to Section 304 of the Penal Code. The trial court sentenced him to serve five (5) years' imprisonment.
2. The Applicant has served 9 months and 3 weeks of his sentence. The Sentence Review Report filed on 3rd April 2024 by Probation Officer Daisy Lang'at recommends a non-custodial sentence.
3. I have however noted that the Applicant has also filed an appeal vide HCCRA E050 of 2023 in which the Respondent has already filed submissions.
4. This Court's revisionary powers in this regard are restricted by the provisions of Section 364 (5) of the Criminal Procedure Code which states, "When an appeal arises from a finding, sentence or order and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed."

Thus, this Application lacks merit and is dismissed.

Orders accordingly.

DATED AND DELIVERED AT NYAMIRA ON THIS 30TH DAY OF MAY 2024.



W.A. OKWANY
JUDGE

