



**Kirui v Republic (Criminal Appeal 133 of 2017)
[2022] KECA 1255 (KLR) (7 November 2022) (Order)**

Neutral citation: [2022] KECA 1255 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPEAL 133 OF 2017
PO KIAGE, F TUIYOTT & JM NGUGI, JJA
NOVEMBER 7, 2022**

BETWEEN

ELKANA RONO KIRUI APPELLANT

AND

REPUBLIC RESPONDENT

(Being an Appeal from the Judgment of the High Court of Kenya at Kisii (Sitai, J.) dated 19th December, 2012 in HCCRA No. 162 of 2011)

ORDER

1. This appeal, is against sentence only. The appellant was sentenced to 20 years imprisonment, the same being the mandatory minimum sentence that could be imposed at the time. He has served a great part of that sentence, and he says he is due for release in November, 2024
2. Mr Okango, learned prosecuting counsel for the republic, concedes the appeal on sentence and in fact, indicates that he would even have been prepared to offer that the sentence be reduced to 10 years imprisonment. Of course, the appellant has served more than 10 years' imprisonment so far and the appropriate order, therefore, ought to be that the sentence be reduced to the term already served.
3. We think that in the circumstance of this case, it will not be in the interest of justice to delay the appellant's resumption of liberty, to await a judgment that may be released three (3) months down the line.
4. We, therefore, order that the state having conceded and we ourselves having considered this appeal, it is allowed on sentence and the order of 20 years imprisonment is reduced to the term already served by the appellant. We therefore, direct and order, that the appellant shall be set at liberty forthwith unless otherwise lawfully held.

Order accordingly.



MADE AT KISII THIS 7TH DAY OF NOVEMBER, 2022.

P.O. KIAGE

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JUDGE OF APPEAL

F. TUIYOTT

.....

JUDGE OF APPEAL

JOEL NGUGI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR

