



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
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**Ombega v Republic (Criminal Revision E609 of 2022)  
[2023] KEHC 3750 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3750 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL REVISION E609 OF 2022**

**HM NYAGA, J**

**APRIL 27, 2023**

**BETWEEN**

**DAVID OMBEGA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant David Ombega was convicted on his own plea of guilty for the offence of Shop breaking and committing a felony contrary to Section 306(a) of the *Penal Code*.
2. The particulars were that on October 29, 2022 at Mukinyai Trading Centre in Molo Sub- County of Nakuru County, jointly with others not before court broke and entered into a building namely barber shop of one Joseph Njuguna Wanjiku with intent to commit a felony.
3. On November 21, 2022, he was sentenced to serve 2 years' imprisonment.
4. The Presentence Report by Newton Majale recommends that the Applicant is not suitable for a non-custodial sentence on grounds that he has previous theft cases solved locally to no avail and that he also belongs to a gang that steals from people.
5. The sentence imposed by the trial court cannot be said to be harsh or excessive.
6. In light of the above report, the Applicant should continue serving the remainder of his sentence in custody.

**DATED, SIGNED & DELIVERED AT NAKURU THIS 27<sup>TH</sup> APRIL, 2023.**

**H M NYAGA**

**JUDGE**

**In the presence of:**



**C/A Jeniffer**

Ms Murunga for state

Applicant (At Rumuruti)

