



REPUBLIC OF KENYA



KENYA LAW
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**Kaura v Republic (Criminal Appeal E070 of 2021)
[2022] KEHC 11551 (KLR) (27 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 11551 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NANYUKI
CRIMINAL APPEAL E070 OF 2021
HPG WAWERU, J
JULY 27, 2022**

BETWEEN

TIMOTHY MWENDA KAURA APPELLANT

AND

REPUBLIC RESPONDENT

*(Appeal from original Sentence in Nanyuki CM
Criminal Case No E1907 of 2021 – B M Mararo, PM)*

JUDGMENT

1. The Appellant, Timothy Mwenda Kaura, was convicted upon his own plea of house-breaking and theft contrary to sections 304(1) (a) and 279(b) of the *Penal Code*. On 13/08/2021 he was sentenced to two (2) years imprisonment on each limb of the offence, the sentences to run concurrently. He appealed against sentence only.
2. On 18/05/2022 I partially allowed the appeal by setting aside the sentences imposed and substituting therefor the time already served (concurrent) and directed that the Appellant be set at liberty forthwith unless otherwise lawfully held. I will now give the court's reasons for that action court.
3. The Appellant is a young man. His mother told this court on 18/05/2022 that he was born on 11/04/2003. He was thus 18 years and 4 months old when he committed the offence on 01/08/2021.
4. The Appellant told this court that he was in fact a student at the time he committed the offence, but that he did not get the chance to so inform the trial court. His mother told this court that indeed he was a student at Gatumba Secondary School.
5. The trial court did not, as it should have done, call for a probation/pre-trial report from the Probation Services, faced as it was by an obviously young adult offender. Such report would have enabled the



court arrive at an appropriate sentence for a young first offender who had pleaded guilty. The sentence it meted out was manifestly harsh and excessive in the circumstances.

6. It was for those reasons that the court partially allowed this appeal against sentence.

DATED AND SIGNED AT NANYUKI THIS 20TH DAY OF JULY 2022

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 27TH DAY OF JULY 2022

