



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**CORAM: D. S. MAJANJA J.**

**CRIMINAL APPEAL NO. 44 OF 2018**

**BETWEEN**

**PATRICK MUKONYI.....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

*(Being an appeal against the original conviction and sentence of Hon. M.Wambani, CM dated at 9<sup>th</sup> February 2017 at the Magistrates Court at Eldoret in Criminal Case No. 6379 of 2016)*

**JUDGMENT**

1. The appellant, **PATRICK MUKONYI**, was charged and convicted on his own plea of guilty for the offence of house breaking and stealing contrary to **section 304 (1)** as read with **section 279 (1)** of the *Penal Code (Chapter 63 of the Laws of Kenya)*. He was sentenced to 4 years' imprisonment.
2. The appellant appeals against the sentence. I have received the record and note that his co-accused who pleaded not guilty was discharged after the complainant withdrew the charges. I therefore find the time served by the appellant sufficient considering that he pleaded guilty and was a first offender.
3. This appeal is allowed to the extent that the sentence of 4 years' imprisonment is quashed and substituted with a sentence of time served. The appellant is set free unless otherwise lawfully held under a separate warrant.

**DATED and DELIVERED at ELDORET this 25<sup>th</sup> day of APRIL 2019.**

**D.S. MAJANJA**

**JUDGE**

Appellant in person.

Ms Mumu, Prosecution Counsel, instructed by the Director of Public Prosecutions for the respondent.