

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 82 OF 2017

NICHOLAS MAINA MUTHONI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 07/07/2017 in Nanyuki CM Criminal Case No 1211 of 2015 – E Ngigi, SRM)

J U D G M E N T

1. The Appellant **NICHOLAS MAINA MUTHONI** was convicted after trial of ***breaking into a building and committing therein the felony of stealing*** contrary to **section 306 (a)** of the ***Penal Code***. It was alleged in the particulars of the offence that in the night of 25th and 26th October 2015 at Timau Township in Meru County, jointly with another person not before the court, he broke and entered the shop of one **LYDIA WAIRIMU** with intent to steal, and that he did steal from therein various items of clothing, shoes, etc, all valued at KShs 50,000/00, the property of the said complainant.
2. On 07/07/2017 the Appellant was sentenced to serve **five (5) years and three (3) months** imprisonment. He has appealed against the sentence only.
3. The Appellant was **not** a first offender. He had at least one previous relevant conviction of theft. The time he had spent in remand pending his trial (one year and nine months) was taken into account when sentencing him.
4. The sentence he received was lawful and richly deserved, and there is no reason at all for this court to interfere with it. The appeal against sentence has no merit and is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 24TH DAY OF JULY 2018

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 26TH DAY OF JULY 2018