

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL APPEAL NO. 186 OF 2017

(Appeal Originating from Nyahururu CM's Court Cr.No. 652 of 2015 by: Hon. P.O. Muholi – R.M.)

JOHN KIBE NJERI.....APPELLANT

- V E R S U S -

REPUBLIC.....RESPONDENT

J U D G M E N T

John Kibe Njeri, the appellant, was convicted for the **Offence of Arson Contrary to Section 332 (a) of the Penal Code.**

The particulars of the charge are that on 8/3/2015, at **Mutarakwa village, Olmoran District in Laikipia County** willfully and unlawfully set fire to a dwelling worth Kshs 50,000/= the property of Susan Muthoni Wambui. When the appellant was arraigned before the court on 11/3/2015, he pleaded guilty to the charge, was convicted on his own plea and sentenced to serve 3 ½ years.

The appellant was treated as a first offender and asked the court for forgiveness. The court called for a pre-sentence report which indicated that the appellant had had a long standing disagreement with the wife and also abused alcohol.

The appellant has filed this appeal challenging both conviction and sentence but on the hearing date, abandoned the appeal on conviction.

His grounds of appeal are that he is a first offender, he pleaded guilty to the offence; that he is a father of four and sole bread winner; that he has been rehabilitated, undergone a carpentry course and acquired Government Trade Test Three and Two and prays to be sentenced to a non custodial sentence.

I have considered the fact that the appellant did not waste the court's time when he pleaded guilty to the charge. He was treated as a first offender. He was sentenced on 9/4/2015. By 9/4/2018 he had served three years. He has a few months left. In my view, the sentence already served is sufficient.

I will therefore allow the appeal, set aside the remaining months and sentence the appellant to the period already served. I will therefore set the appellant free forthwith unless otherwise lawfully held.

Dated, Signed and Delivered at NYAHURURU this 25th day of July, 2018.

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R.V.P WENDOH

JUDGE

PRESENT:-

Ms. Rugut - Prosecution Counsel

Soi - Court Assistant

Appellant in person