

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL REVISION 122 OF 2017

K MAPPLICANT

VERSUS

REPUBLICRESPONDENT

(Pursuant to an order issued by Chief Magistrate's Court at Nanyuki on 21st August 2017 in Nanyuki Chief Magistrate Criminal Case No. 815 of 2017)

RULING

1. **K. M.**the subject was convicted on his own plea of guilt of the offence of **House breaking Contrary to Section 304 (1) (b) and Stealing Contrary to Section 279 (b) of the Penal Code.**
2. The trial court after receiving probation report and mitigation of the subject committed him to serve 2 years at Shikusa Borstal Institution. The said Borstal Institution has notified the trial court that the mandatory period for a subject committed at the Borstal Institution is 3 years. This is as per **Section 6 (1) of the Borstal Institutions Act Cap 92.**
3. Indeed the said Section provides a mandatory period of 3 years that a subject should be committed to a Borstal Institution. Since that is the Law and the trial court was clear that the subject, because of his criminal behaviour, should be committed to a Borstal Institution, in exercise of the Powers of review provided under **Section 362 of the Criminal Procedure Act** and the Supervisory Power under the **Constitution under Article 165 (6) (7)** this court shall revise the sentence of the trial court to comply with the Law. Accordingly the trial court's sentence is hereby set aside. The court orders K. M.to be committed to Shikusa Borstal Institution for a period of **3 years starting from 21stAugust 2017.**

Dated this 20th September, 2017

MARY KASANGO

JUDGE