



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT SIAYA**  
**CRIMINAL APPEAL NO. 97 OF 2016**

**BETWEEN**

**JOHN ODUOR OTIENO.....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

*(Being an Appeal against the original conviction and sentence of Hon. M.S. Kimani, RM dated 19<sup>th</sup> March 2015 in Siaya Principal Magistrates Court Criminal Case No. 101 of 2014)*

**JUDGMENT**

1. The appellant, **JOHN ODUOR OTIENO**, wishes to appeal against sentence only. He was charged and convicted on four counts of breaking into a dwelling house and stealing contrary to **section 304(1)(a)** as read with **section 279(6)** of the *Penal Code (Chapter 63 of the Laws of Kenya)*. He was convicted and sentenced to 2½ years on all the counts which were to run consecutively resulting to a total of 10 years.
2. Counsel for the Respondent has correctly conceded that the sentence was excessive and ought to have been considered.
3. The appeal on sentence is allowed. The sentences are quashed and substituted with an order that they run consecutively. Since the appellant has served the sentence, he is released unless otherwise lawfully held.

**DATED AND SIGNED AT SIAYA THIS 22ND DAY OF DECEMBER 2017.**

**D. S. MAJANJA**

**JUDGE**

Appellant in Person.

Ms Odumba, Prosecution Counsel, instructed by the Director of Public Prosecutions for the State.

Court Assistants: L. Odhiambo and L. Atika.