



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NANYUKI**  
**CRIMINAL APPEAL. NO. 63 OF 2016**

**DOMINIC LETIRIKWAN..... APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an appeal from the original conviction and sentence in Maralal Principal Magistrate's Court Criminal Case No. 199 of 2015 by Hon. B.S Khapoya Senior Resident Magistrate on 23<sup>rd</sup> February, 2015)*

**JUDGMENT**

1. **DOMINIC LETIKIKWAN** was charged with the offence of **breaking into a building and committing a felony Contrary to Section 306 (a) of the Penal Code**. He pleaded guilty to that offence and was sentenced to 4 years imprisonment. He now files this appeal against that sentence.

2. The appeal was opposed by the Senior Prosecution Counsel Mr. Tanui. Learned Counsel submitted that the appellant's sentence was deserving even though he did not have previous conviction. That the trial court in passing the sentence noted that those offences were rampant in Maralal town.

3. Appellant relied on his written and oral submissions. He stated in his written submissions that this was the first offence he had ever been charged with. That he pleaded guilty before the trial court. That he was remorseful of what he did and that his time in jail had taught him that crime does not pay. He stated in this regard;

***"I will never again in my life engage in any law breaking (sic) or associate myself with law breakers."***

Orally before court he submitted that he was sickly and in this regard handed to the court his treatment notes which indeed confirm that he had received medical treatment. I also observed that he looked sickly.

4. In the case **REPUBLIC V JAGANI & ANOTHER[2001] KLR 590** the court considered the purpose of sentencing and stated;

***"The purpose of a sentence is usually to disapprove or denounce unlawful conduct as a deterrent to deter the offender from committing the offence, to separate offenders from society if necessary to assist in rehabilitation of offenders, and in retribution by providing for reparation for harm done to victims in particular and to society in general. It is also seen as promoting a source of responsibility in offenders."***

5. In my view the above purpose has been achieved in the case of the appellant. Much more appellant

looks sickly and prison, right now, is not for his good.

6. For the above reasons the appellants appeal against sentence is allowed. His sentence is hereby set aside. He is sentenced to serve imprisonment for the period he has already. **I order the appellant to be set free from custody unless he is otherwise lawfully held.**

*Dated and Delivered at Nanyuki this 19th December, 2016*

**MARY KASANGO**

**JUDGE**

**Coram**

Before Justice Mary Kasango

Court Assistant: .....

Appellant: Dominic Letikikwan

For state: .....

**COURT**

Judgment delivered in open court

**MARY KASANGO**

**JUDGE**