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REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUSIA
Criminal Appeal 101 of 2011

1..JOHN IJAAN EKAPTENAPPELLANTS
2. DENIS ONYANGO EKOSOWAN.....APPELLANTS

VERSUS

REPUBLICRESPONDENT

SENTENCING

7/5/12

Before: Kimaru J.

Mutai – court clerk

Mr. Okeyo for State

John IjaanIkapel 1st Appellant present

Dennis OnyangoOkosowan – 1st appellant

OKEYO

I pray that the appeals No.101 and 73e of 2011 be consolidated heard together as one. The appeal arose from the same proceedings in the lower court.

1st Appellant – no objection

2nd Appellant – no objection

ORDER

Criminal Appeal No.101 of 2011 and no.73 of 2011 are hereby consolidated and shall be heard together as one. Proceedings shall be taken in file No.73 of 2011.

L. KIMARU
JUDGE
1ST APPELLANT.

I am appealing against sentence. I am a first offender. I was jailed for 3 years. I am remorseful for the offence that I committed. I was jailed on 30/9/2010. I have no other case pending. I plead for the leniency of the court. I am 28 years. I am single. I make bricks for sale. I also worked part time as untrained teacher. I attained C+ in 2003 at Weaverbird Academy. My mother is alive. My dad died in 2005. I have 3 brothers and 3 girls. I am the 2nd born. I committed the offence due to idleness and involvement with bad company. I am now born-again. I have been in jail for 21 months. I have trained to be builder(mason) in prison. I will use this skill to earn a living.

2ND APPELLANT

I am pleading for leniency. I am only appealing against sentence. I am the sole breadwinner of my family. I have a sister. I was cheated to commit the offence. I was involved in bad company that is why I committed the offence. I ask the court to exercise leniency. I committed the offence because I was lazy. I am 27 years old.

OKEYO

Appeal is on sentence only. The maximum sentence is seven (7) years imprisonment. I am aware of the circumstances that led to their involvement in the theft access to the house where the items were stolen was given by the maid. Before she testified she had pleaded guilty and sentenced to serve three (3) years probation.

COURT

I have considered the appeal of the appellants on sentence. I have also considered the entire circumstances of this case. The appellants were first offenders. All the stolen items were recovered. The appellants appear to the court to be remorseful. They have learnt their lesson in prison. This court is of the opinion that the period that the appellants have been in prison is sufficient punishment for them. This court therefore sets aside the sentence of the subordinate court and substitutes it with a sentence of this court commuting the sentence of the appellants to the period already served. The appellants are ordered set at liberty and released from prison unless otherwise lawfully held.

L. KIMARU
JUDGE