

REPUBLIC OF KENYA

IN THE HIGH COURT

AT NAKURU

Criminal Appeal 60 of 2011

MARK MWANGI KARIUKI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

[An Appeal from original conviction and sentence in Nyahururu P.M.CR.C.NO.331 of 2011 by Hon A. B. Mong'are, Senior Resident Magistrate dated 4th January, 2011]

JUDGMENT

The appellant was sentenced on his own plea of guilty to four years for **house breaking** and stealing contrary to **Section 304(1)** and **279(b)** of the **Penal Code** and to one year for **escape from lawful custody** contrary to **Section 36** of the **Penal Code**. The sentences on both counts were ordered to run concurrently. He has appealed challenging the sentence, claiming that when he pleaded guilty and convicted he was below 18 years.

Before me he pleaded for leniency saying that he has reformed having attained Grade 3 Certificate in Carpentry and having been converted as a Christian.

The court below passed the sentence on both counts after considering the appellants past record and conduct when he was arrested. The appellant has a previous record of conviction having been placed on probation. As a matter of fact, he committed the offence the subject of this appeal while serving a probationary term. Furthermore, he attempted to escape when he was arrested. Regarding his age, there is no evidence to show that he was below 18 years during his trial. He did not state so in his mitigation

For these reasons, I find no merit in the appeal. It is dismissed.

Dated, Signed and Delivered at Nakuru this 14th day of June, 2012.

W. OUKO
JUDGE