

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Criminal Appeal 260 of 2009
JAMES WACHIRA GATHONI.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT

JUDGMENT

This is an appeal against sentence. **JAMES WACHIRA GATHONI**, the appellant was charged with burglary contrary to **Section 304(2)** and stealing contrary to **Section 279(b)** of the **Penal Code**. He was in the alternative charged with handling stolen property contrary to **Section 322(2)** of the **Penal Code**. He pleaded guilty to the main charge and the trial court was upon convicting him minded on placing him on probation but the report on him was that he is a notorious criminal. It in the circumstances he was sentenced him to 6 years imprisonment on each limb of the offence. The court directed that the sentences do run concurrently. He has appealed against those sentences.

In his submissions before me the appellant stated that he is a widower with 5 children who have now been left with nobody to take care of them. Mr. Gumo for the state left the issue of sentence to me.

I have considered the matter. Though the appellant does not post a good record in his community, being a widower with 5 children who are now left destitute I reduce the sentences to three years imprisonment on each limb of the offence and direct that the same shall run concurrently.

DATED and delivered this 27th day of January, 2010.

D. K. MARAGA
JUDGE.