



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KISII**

**Criminal Appeal 98 of 2008**

**WYCLIFF OBAE ABUGA ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**(From original conviction and sentence in the Resident Magistrate's Court**

**Keroka Criminal Case No.442 of 2008 by HON. MR. WERE ESQ., S.R.M)**

**JUDGMENT**

The appellant was convicted on his own plea of guilty on a charge of house breaking contrary to **section 304(1)** and stealing contrary to **section 279(b)** of the **Penal Code**. He was sentenced to three years' imprisonment.

He appealed against the conviction and sentence. He stated, **inter alia**, that the plea was equivocal and the sentence was harsh.

I have perused the record of appeal and it is clear that the plea was unequivocal. The charge and the facts were read in English and interpreted to Kiswahili language. There was no indication that the appellant did not understand Kiswahili. He admitted that the facts were true and he mitigated.

I dismiss the appeal against conviction. As regards the appeal against sentence, I do not find the same to be harsh or excessive, I therefore dismiss the appeal in its entirety.

**DATED, SIGNED and DELIVERED at KISII this 15<sup>th</sup> day of May, 2009.**

**D. K. MUSINGA.**

**JUDGE.**

Delivered in the open court in the presence of:

1. Mr. Nyakundi for the appellant.
2. Mr. Mutai, Senior State Counsel for the Republic.

**D. K. MUSINGA.**

**JUDGE.**