



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

**Criminal Appeal 274 of 2009**

**(From original conviction and sentence in Criminal Case No.1080 of 2002 of the Chief Magistrate's court at NAKURU – S. MUKETI, SRM)**

**JAMES KAMAU KIBE.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

**JAMES KAMAU KIBE**, the appellant, was with two others charged with the offence of robbery with violence contrary to **Section 296(1)** of the **Penal Code**. They were in the alternative charged with handling stolen property contrary to **Section 322(2)** of the **Penal Code**. He pleaded not guilty but after trial before the Senior Resident Magistrate at Nakuru he was convicted of the main count and sentenced to seven years imprisonment. He has appealed against both the conviction and sentence.

When his appeal came up for hearing before me on 24<sup>th</sup> November 2009, the appellant abandoned the appeal against conviction and submitted that having been incarcerated since 2003 he has learnt his lesson and pleaded for the reduction of his sentence. Mr. Gumo for the state left the issue of sentence to me.

I have considered the submissions by the appellant. It is true that he has been incarcerated since 4<sup>th</sup> April 2002 when he was arrested. I think he has had enough punishment. In the circumstances I reduce the sentence to such a term as will secure his immediate release. The appellant shall therefore be released forthwith unless otherwise lawfully held.

**DATED and delivered at Nakuru this 25<sup>th</sup> day of November, 2009.**

**D. K. MARAGA**

**JUDGE.**