



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
(Coram: Ojwang, J)
CRIMINAL APPEAL No. 30 OF 2007

ERIC OTIENO KOBE.....APPELLANT

-VERSUS-

REPUBLIC.....RESPONDENT

(An appeal from sentence imposed by Senior Principal Magistrate Mrs. Mwangi dated 25th April, 2006 in Criminal Case No. 2227 of 2006 at Kibera Law Courts)

JUDGEMENT

The appellant was charged in two separate cases, one being Criminal Case No. 2227 of 2006 (stealing contrary to s.275 of the Penal Code); the other being Criminal Case No. 4925 of 2006 (escape from lawful custody). For the first offence, in respect of which he pleaded guilty, he was sentenced to 18 months' imprisonment. For the second offence, in respect of which he again pleaded guilty, he was sentenced to two years' imprisonment.

In his appeal he urges that the two charges should have been consolidated and that, in that event, sentence would have been harsh; and so he prays for *consolidation* and for a shorter term of imprisonment.

While agreeing that sentence in both cases would have been harsh, given that the appellant pleaded guilty and saved the Court's time, learned State Counsel *Ms Gateru* has urged that these were offences committed on separate occasions, and consequently, sentences would not have run concurrently.

This reasoning, I think, is correct. The sentences must stand separately.

In the case of the offence of stealing contrary to s.275 of the Penal Code, I find the sentence of 18 months to have been unduly harsh, considering all the circumstances of the case; and consequently I hereby reduce the term of imprisonment to one year's imprisonment from original date of sentence.

As regards the offence of escaping from the lawful custody, my decision is set out in the appropriate appeal file, Criminal Appeal No.31 of 2007.

Orders accordingly.

DATED and DELIVERED at Nairobi this 29th day of January, 2008.

J.B. OJWANG

JUDGE

Coram: Ojwang, J.,

Court clerk: Huka

For the Respondent: Ms. Gateru

Appellant in person