



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

**AT EMBU**

**Criminal Appeal 120 of 2005**

**RICHARD MUTURI NDWIGA.....**  
**.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The appellant states he does not challenge his conviction however he says the sentence is too harsh and excessive in the circumstances. The sentence of 5 years imprisonment is harsh for a first and youthful offender. It does not give him opportunity to reform. I set the sentence aside and substitute with an unconditioned discharge he has already served a substantial part of imprisonment. The upshot is that the appeal is allowed to that extent. The appellant shall be released forthwith unless otherwise held.

Dated this 23<sup>rd</sup> January, 2008.

**J. N. KHAMINWA**

**JUDGE**