

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NYERI

Criminal Appeal 251 of 2007

DANCUN NJUKI THEURI APPELLANT

Versus

REPUBLIC RESPONDENT

(Being an appeal against the conviction and sentence by P. C. TOROREY, Ag Principal Magistrate, in the Principal Magistrate's Criminal Case No. 584 of 2007 at KARATINA)

JUDGMENT

The appellant in the lower court pleaded guilty to a charge of ***Being in possession of narcotic drug contrary to section 3(1) as read with Section 2(a) of the Psychotropic Substance Act No. 4 of 1994.*** The facts of the case were that on 9th July 2007 at about 8 p.m. police officers who were manning a road block inspected passengers in a Nissan Matatu. When they searched the appellant's bag they recovered 6 stones of Cannabis Sativa. The accused was arrested and later charged. The appellant was convicted on his plea on those facts. In his mitigation he stated that he was the sole bread winner of his family and that his father was ailing. The learned magistrate was informed that he was a first offender. He was sentenced to 10 years imprisonment. That terms of sentence is the maximum provided under Section 3(2) (a). Accordingly bearing in mind that he was first offender that sentence was harsh. I do therefore set aside the sentence of the lower court passed on 11th July 2007 and instead I do substitute a sentence of that offence for 1 ½ years to begin to run from 11th July 2007.

DATED AND DELIVERED THIS 28TH DAY OF JULY 2008

MARY KASANGO

JUDGE