

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA OF KISII

Criminal Appeal 29 of 2008

PETER ODHIAMBO OTIENO..... APPELLANT

VERSUS

REPUBLIC RESPONDENT

**(From original conviction and sentence in the Senior Resident Magistrate's Court at
Oyugis Criminal Case No.77 of 2008**

by R. NGETICH – S.R.M)

JUDGEMENT

The appellant was convicted on his own plea of guilty on a charge of breaking into a building and committing a felony contrary to **section 306(a)** of the **Penal Code**. The particulars of the offence were that on the night of 25th and 26th February 2008 at Kanyipir Location in Rachuonyo district within Nyanza Province jointly with others broke and entered into a school building and stole there from 48 irons sheets, roofing nails and one pressure lamp all valued at Kshs.42, 200/=.

The aforesaid stolen items were recovered from the appellant and his accomplices. The appellant was sentenced to five years' imprisonment. He was aggrieved by the said sentence and preferred an appeal to this court. He said that the same was harsh and excessive considering that he was a first offender.

Considering that the appellant was a first offender, that he pleaded guilty and that all the stolen items were recovered I allow the appeal on sentence and reduce the jail term to one year.

DATED, SIGNED and DELIVERED at KISII this 28th day of July, 2008.

D. MUSINGA

JUDGE

Delivered in open court in the presence of:

The appellant

Mr. Kemo, Senior Principal State Counsel for the Republic

D. MUSINGA

JUDGE.

