

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Criminal Appeal 159 of 2005

**(From original conviction (s) and Sentence(s) in Criminal case No. 729 of 2005 of the
Chief Magistrate’s Court at Kibera (Ms. Kasera – S..M.)**

**RAMADHAN HASIM WAWERU.....
.....APPELLANT**

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

RAMADHAN HASIM WAWERU has appealed against the sentence only having been convicted on his own plea of guilty for the offence of **THEFT FROM PERSON** contrary to **Section 279(a)** of the Penal Code. He was sentenced to 4 years imprisonment.

Mrs. Obuo for the State opposed the appeal against sentence. Learned counsel submitted that the offence called for a maximum sentence of 14 years imprisonment and that 4 years was legal. Counsel continued to submit that the sentence was passed after a CSO Report was considered by the trial court.

It is true that a CSO Report was called for which proved negative to a non-custodial sentence. The basis of the negative report was that the Appellant had lied about certain undisclosed issues to the probation officer and that he did not support his mother, his only parent, who was severely retarded mentally. The Appellant was however a first offender, had pleaded guilty to the charge showing remorse. The Appellant needed some benefit for these two positive points concerning him and in those circumstances I find the imprisonment of 4 years on the harsh and excessive side. I will allow his appeal by setting aside the sentence of 4 years imprisonment and in substitution thereof impose one for 2 years imprisonment from the date of the original sentence.

Dated at Nairobi this 26th day of July 2006.

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LESIIT, J.

JUDGE

Read, signed and delivered in the presence of;

Appellant

Mrs. Obuo for the State

CC: Huka

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LESITT, J.

JUDGE