

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA

Criminal Appeal 281 of 2003

(Appeal against both conviction and sentence of the Resident Magistrate's Court

at Hamisi in Criminal Case No. 582 of 2003 (W. B. O. TENGO ESQ., RM)

STANLEY SEVENI APPELLANT

V E R S U S

REPUBLIC RESPONDENT

JUDGEMENT

The appeal by Stanley Seveni was against the severity of sentence. He was charged with house breaking C/S 304(1) and stealing C/S 279(b) of the Penal Code. He admitted the offence and the facts constituting the offence. He broke into the house of one Collins Asuna Sore and stole goods valued at Shs.5000/=.

When called upon to mitigate, the appellant is recorded to have said he had no mitigation. In sentencing the appellant, the trial magistrate noted that the appellant had been convicted of a similar offence and was in prison serving sentence of 3 years. He sentenced him to 3 years imprisonment for house breaking and 3 years imprisonment for stealing, both to run concurrently.

There is no basis for interfering with the learned trial Magistrate's discretion and it is patent that a severe sentence was called for in this case. I find no merit in the appeal and hereby dismiss it.

Dated at Kakamega this 3rd day of June, 2005.

G. B. M. KARIUKI

J U D G E