

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO. 1190 OF 1998

**(From Original Conviction and Sentence in Criminal Case
No.82 of 1997 of the Senior Principal Magistrate's Court at
Kiambu)**

JAMES GITUNGO NJIHIA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

CONSOLIDATED WITH CRIMINAL APPEAL NO. 1191 OF 1998

DICKSON MUNGAI KUNGU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

CONSOLIDATED WITH CRIMINAL APPEAL NO. 1192 OF 1998

STEPHEN NDERU NJUGUNA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

Criminal appeal Nos.1190, 1191 and 1192 of 1998 are consolidated.

The appeals are only against the sentence of 10 years imprisonment passed against each of the other appellants on 15/9/1998 for handling stolen goods, contrary to section 322(2), P.C.

It is clear from the original record that the Magistrate thought that the sentence provided for this offence was not less than 7 years and more than 14 years. The fact is that the said provision for the sentence was amended by Act 22/87 fixing the sentence to anything upto 14 years at the discretion of the court.

In the instant all 3 appellants were first offenders and the property the appellant in appeal No.1191 (Dickson) handled was only a bunch of 7 keys. The other two appellants' handling was of property worth Sh.40,000/=. All 3 appellants are serving the sentence since September, 1998.

Order:

The sentence against each of the three appellants is reduced to a period served. They say that they are sentenced to death for capital robbery in another case and are awaiting the result of their appeals against the said death sentence.

Dated and delivered at Nairobi this 21st day of March, 2002.

V.V. PATEL

JUDGE