

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO.1193 OF 1996

(From Original Conviction(s) and Sentence(s) in the Criminal Case No.2278

of 1995 of the Resident Magistrate's Court at Kikuyu)

JAMES MASIGA WANDWASIAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant was convicted of robbery contrary to section 296(1), P.C.

The evidence of P.W.2 and 3, which the learned Magistrate accepted, clearly established the charge against the appellant.

P.W.2 testified that he saw two robbers at the time. The appellant who was one of them was very close to him, only 2 feet away. He added that he saw him clearly including the clothes he (appellant) were at the time.

P.W.3 testified that he apprehended the appellant soon after the offence was committed, a few metres away from the complainant's house. The appellant had the same clothes on as stated by the P.W.2. The Magistrate considered the entire evidence and defence. He rejected the defence as false and rightly so.

The appellant was arrested in October, 1995 and he remained in remand until 18/9/96, when the trial finally ended. He is serving the prison sentence since then. He had no previous counts.

The prison sentence is reduced to a period served. The order for the two strokes stands which be inflicted and the appellant be released forthwith thereafter.

Dated and delivered at Nairobi this 11th day of August, 2000.

V.V. PATEL

JUDGE

