



REPUBLIC OF KENYA



**Ngetich v Republic (Criminal Appeal E035 of 2022)
[2025] KEHC 12744 (KLR) (18 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 12744 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL APPEAL E035 OF 2022
JK NG'ARNG'AR, J
SEPTEMBER 18, 2025**

BETWEEN

WESLEY KIPRONO NGETICH APPELLANT

AND

REPUBLIC RESPONDENT

(From the conviction and sentence in Criminal Case Number E1250 of 2021 by Hon. Kiniale L. in the Principal Magistrate's Court at Bomet)

JUDGMENT

1. The Appellant was charged for the offence of arson contrary to section 332 (a) of the Penal Code. The particulars of the offence were that on 18th June 2021 at Sugumega Location in Chepalungu Sub-County within Bomet County, he wilfully and unlawfully set fire to a building valued at Kshs 100,800/= belonging to Mercy Chepkirui Ngetich.
2. The Appellant pleaded not guilty to the charge before the trial court and a full hearing was conducted. The prosecution called six (6) witnesses in support of its case. The Appellant on the other hand gave unsworn testimony and did not call any witness.
3. In its Judgment dated 31st August 2022, the trial court convicted the Appellant and sentenced him to serve 20 years imprisonment.
4. Being aggrieved with the Judgment of the trial court, the Appellant, Wesley Kiprono Ngetich appealed against his sentence.
5. I have gone through and given due consideration to the trial court's proceedings, the Petition of Appeal filed on 12th September 2022 and the Respondent's written submissions dated 2nd August 2023. The only issue for my determination was following issues arise for my determination was whether the sentence preferred against the Appellant was harsh.



6. As I have stated earlier in this Judgment, the Appellant was sentenced to serve 20 years imprisonment. The Appellant stated that his sentence was harsh and violated the provisions of Article 50 (2) of *the Constitution* of Kenya. On the other hand, the Respondent through their written submissions dated 2nd August 2023 submitted that the Appellant was given a chance to mitigate in the trial court and that the sentence was legal. That the penalty for the offence of arson was a maximum of life imprisonment.
7. The general principles upon which the first appellate court acts in regards to sentencing are now well settled. It has jurisdiction to interfere with sentence imposed by the trial court if it is satisfied that in arriving at the sentence, the trial court did not take into account a relevant factor or that it took into account an irrelevant factor or that in all the circumstances of the case, the sentence is harsh and excessive. However, the Court should not lose sight of the fact that in sentencing, the trial court exercises discretion and as long as the discretion is exercised judicially and not capriciously, the appellate court should be slow to interfere with that discretion. (See *Peter Mbugua Kabui v Republic* [2016] KECA 713 (KLR)).
8. Sentencing serves multiple purposes as enumerated in the Sentencing Policy Guidelines 2023 which outline the objectives of sentencing at paragraph 1.3.1 as follows: -

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

 - i. Retribution.
 - ii. Deterrence.
 - iii. Rehabilitation.
 - iv. Restorative justice.
 - v. Community Protection.
 - vi. Denunciation.
 - vii. Reconciliation.
 - viii. Reintegration.
9. Section 332 of the Penal Code provides: -

Any person who wilfully and unlawfully sets fire to—

 - (a) any building or structure whatever, whether completed or not; or
 - (b) any vessel, whether completed or not; or
 - (c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or
 - (d) a mine, or the workings, fittings or appliances of a mine, is guilty of a felony and is liable to imprisonment for life.
10. I have considered the circumstances of the case and I agree with the trial court that the circumstances were aggravating in nature. I have also noted that the Appellant was given a chance to mitigate and he pleaded for leniency stating that he was an orphan.
11. Given that the maximum sentence for this offence was life imprisonment, it is my finding that the sentence was just, fair and commensurate. The trial court properly exercised its discretion and did not



apply any wrong principle in sentencing the Appellants. In the circumstances thereof, this court has no reason to interfere with the sentence. For avoidance of doubt, I uphold the Appellant's sentence.

12. In the end, the Appeal has no merit and is dismissed.

JUDGEMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 18TH DAY OF SEPTEMBER, 2025.

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HON. JULIUS K. NG'ARNG'AR

JUDGE

Judgement delivered in the presence of:

Siele/Susan (Court Assistants)

Appellant present in person

Koech for the Republic

