



**Kipkosgei v Republic (Miscellaneous Criminal Application
E101 of 2024) [2024] KEHC 9162 (KLR) (17 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9162 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPSABET
MISCELLANEOUS CRIMINAL APPLICATION E101 OF 2024**

JR KARANJA, J

JULY 17, 2024

BETWEEN

MOHAMED KIPKOSGEI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant, Mohammed Kipkosgei was the fourth Accused when he appeared alongside three others before the Principal Magistrate at Kabiyet, charged with breaking into a building and committing a felony Contrary to Section 306(a) of the *Penal Code*. Alternatively, the Accused were charged with handling stolen good Contrary to Section 322(1) (2) of the *Penal Code*.
2. All the Accused including the Applicant pleaded guilty to the alternative counts and were convicted accordingly. Accused 2 and 3 were handed a probation sentence of 12months on account of their ages which indicated that they were juveniles and also on account of the pre-sentence report availed by the Probation Officer.
3. Accused 4 being the only adult was sentenced to serve imprisonment for a period of twelve (12) months. This sentence was lawful and not excessive by any stretch of imagination considering that he handled property which had been stolen from a primary school thereby encouraging the commission of such offences.

In fact, for a deterrence effect a handler of stolen property should be severely punished more than the actual offender.
4. Therefore, the Applicant is not deserving of a review in sentence to enable him pay a fine. Such review would be a slap on the hand of the Applicant and a motivation for him to continue handling stolen property. Nonetheless, in view of the judiciary's programme of de-congesting our penal facilities, the sentence is hereby reviewed to the extent that the sentence of twelve (12) months imprisonment



is substituted for a non-custodial sentence of probation for a period of two (2) years under the supervision of the Probation Officer responsible for Nandi/North Sub-County.

DELIVERED AND DATED THIS 17TH DAY OF JULY 2024

J. R. KARANJAH,

JUDGE

