



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**

**CRIMINAL MISC. APPLICATION NO.94 OF 2019**

**PETER MUREITHI KARIUKI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The appeal is defective in the sense that the appellant has combined two matters in his memorandum of appeal.
2. The appellant was charged with the offence of burglary contrary to Section 304(2) of the Penal Code on the 1<sup>st</sup> of September 2018 in Criminal Case No. 693 of 2018. He pleaded guilty to the offence, was convicted and failed for 3 years on the 1<sup>st</sup> of October 2018.
3. While serving his jail term and while taken to perform cleaning duties at P.C. Residence within Garissa he escaped from lawful custody. He was apprehended and charged accordingly in Criminal Case NO. 830 of 2018. He pleaded guilty, was convicted and sentenced to 2 years on 14<sup>th</sup> November 2018.
4. If aggrieved with the sentences in the two matters, the Appellant ought to have filed separate appeals as the cases are distinct and separate.
5. In his oral submissions in court the appellant mitigated and sought for forgiveness, informing the court that he is remorseful and has learnt his lesson.
6. The State opposed the appeal on grounds that the trial court followed due process. Further that the appellant mitigated before sentence which the trial court considered and the appeal should therefore be dismissed.
7. As indicated above the appellant pleaded guilty to the offences that faced him and was convicted on his own plea of guilt.
8. Apart from the technical issues facing the appeal, sentencing is a matter of discretion. The offences committed by the appellant are both very serious. I am of the view that each attracted a reasonable sentence, which were meted out and I therefore see no reason to interfere with the sentences.
9. For the two reasons above the Appeal is dismissed on both scores.

**DELIVERED AND SIGNED AT GARISSA THIS 10<sup>TH</sup> DAY OF JUNE, 2021.**

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**ALI-ARONI**

**JUDGE**