



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL APPEAL NO. 131 OF 2017

HENRY MASWAI MUSONYEAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(from the original conviction and sentence by B. S. Khapoya, SRM, in Kakamega CM Criminal Case No. 2832 of 2017 dated 17/10/2017)

JUDGMENT

The Appellant herein was convicted of the offence of house breaking and stealing on his own plea of guilt and sentenced to four (4) years imprisonment on 17.10.17. The current appeal is against sentence.

The appellant has served two years in prison and pleads for leniency. He is a single father of 4 children aged between 9 and 16 years. His wife passed on in the year 2016 and his parents are all dead. His brother currently takes care of his 4 children.

The appellant states that he has reformed and is ready to abide by the laws of the land.

I have considered the appeal. The court takes notes that the appellant has all along cooperated with the court. He pleaded guilty to the charge, and has now served 2 of the 4 years. I have also taken into account the fact that the appellant is a single absent father of 4 children who need his care. He also has no parents.

The aim of sentencing is to achieve the three goals of retribution, rehabilitation and reformation, which I believe has been achieved by the two years the appellant has spent in jail. I am satisfied that when he comes out of jail the appellant will abide by the law. The appeal is therefore allowed on the following conditions:

1. The appellant is forthwith herewith released from jail and the remaining term is hereby suspended.
2. The appellant shall not engage in any unlawful activity within the next 2 years.
3. Should the appellant engage in any unlawful activity the suspended term herein will be cancelled and the appellant shall be arrested and shall serve the entire term.

That is the Judgment of the court.

There is granted 14 days right of appeal.

Delivered, dated and signed in open court at Kakamega this 2nd day of September, 2019.

E. K. O. OGOLA

JUDGE

In the presence of:

State Counsel – Mr. Ongige

Appellant -

