



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KABARNET

CRIMINAL APPEAL NO 191 OF 2017

GAEL KIPLAGAT KIBON.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

[An appeal from the original conviction and sentence of criminal case no. 191 of 2017 in the Principal Magistrate's court at Kabarnet delivered on the 20th day of March, 2017 by Hon. S.O Temu PM]

JUDGMENT

1. The appellant herein was convicted and sentenced for the offence of breaking into a building and committing a felony contrary to section 306 (a) of the Penal Code. The appellant/accused was convicted on his plea of guilty and sentenced to serve imprisonment for a term of (4) years.
2. The appellant did not challenge the conviction but petitioned that he is remorseful and apologetic promising not to repeat the same.
3. The DPP while opposing the appeal urged the appellant should complete the sentence as a deterrent.
4. The court requested for a pre-sentence report noting that the appellant has only eight (8) months to complete his sentence.
5. Mr. Kiprono the Probation Officer gave recommendation on the 7th day of November, 2018 as follows:

“RECOMMENDATION

Given the appellants remorse and the strong family support system, the positive sentiments from the complainants, the local administration and the immediate neighbours, coupled with his willingness to pay back to the community for his wrongdoing; it is our opinion that his remaining period of custodial sentence may be reviewed and substituted with a Community Service Order (CSO) to be served at the office of the Chief Lobo location for a period this honourable court deems fit.

Kiprono M.K

Probation Officer

Baringo Sub-County

Date: 20/11/2018”

Orders

6. Having considered the matter, I find that the circumstances of the case are suitable for an order for Community Service Order under section 3 of the Community Service Order Act.
7. Accordingly, I sentence the appellant to serve community service at Lobo Chief's Office for a period of three (3) months from today.

DATED AND DELIVERED THIS 5TH DAY OF DECEMBER 2018

EDWARD M. MURIITHI

JUDGE

Appearances:

Appellant in person

Ms. Macharia Assistant DPP for the Respondent