

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL APPEAL No. 68 OF 2008

LESIT, J.

FRANKLINE NJAGI NJUE.....APPELLANT

VERSUS

REPUBLIC.....PROSECUTOR

JUDGEMENT

1. The Appellant **FRANKLINE NJAGI NJUE** was convicted of one count of Robbery contrary to section 296(1) of the Penal Code. He was sentenced to serve 8 years imprisonment. Being aggrieved by the conviction and sentence he filed this appeal.
2. When the appeal came up for hearing the Appellant sought to pursue his appeal only against sentence. He urged the court to reduce his sentence saying he had served six and a half years of the eight years imprisonment sentence imposed against him. He urged that he will be of use to himself and the community having learnt a lesson, and having graduated with a Grade II Mason and Black Smith certificate.
3. The state was represented by Mr. Moses Mungai, Senior Prosecution Counsel. The learned Counsel did not oppose the appeal.
4. The court has considered that the Appellant was convicted of attacking the complainant with an iron bar which he used to hit her once on the head. He then took a mobile phone and cash 500/- from her. I considered that the Appellant was alone at the time he committed this offence and that he was a first offender. Taking the circumstances of the offence and the fact the stolen handset was recovered, I find that the sentence of 8 years imprisonment was rather on the higher side.
5. The Appellant has served almost all the sentence. He pledges to be of use to the community, if released from the skills gained while in prison. Having taken all into consideration, I will allow Appellant's appeal against sentence. I find that the Appellant has served sufficient punishment for the offence.
6. **The sentence is accordingly set aside and in substitution it is reduced to the period already served. The Appellant should be set free unless he is otherwise lawfully withheld.**

DATED, SIGNED AND DELIVERED AT MERU

THIS 17TH DAY OF JULY, 2014

LESIT, J,

JUDGE