

REPUBLIC OF KENYA

High Court at Mombasa

Criminal Appeal 341 of 2010

(From Original Conviction and Sentence in Criminal Case No. 187 of 2010 of the Principal Magistrate's Court at Voi – Nyakundi L.M (RM))

NICKSON KALUME APPELLANT

- Versus -

REPUBLIC RESPONDENT

JUDGMENT

The Appellant was sentenced to seven years imprisonment for the offence of housebreaking contrary to Section 304(1) and stealing contrary to Section 279(b) of the Penal Code.

The particulars are that on the 2nd day of March 2010 at Sasire Village Mbololo Location in Voi District the accused broke and entered the dwelling house of JOSEPH MUIGAI with intent to steal from therein and did steal a mattress, one stool, a jerrican, two buckets, two mosquito nets, two T-shirts the property of the said JOSEPH MUIGAI. The said items being of the value of Kshs. 2,000/-.

The Appellant pleaded guilty to the charge. All the stolen items were recovered. He was treated as a first offender. The value of the items stolen was Kshs. 2,000/-. He had been sentenced to the maximum term of seven years. No good reason was placed before the trial Court so as to mete out the maximum imprisonment term. I find seven years imprisonment to be harsh and excessive. I accordingly reduce them to three years imprisonment on the first limb, the two year sentence on the 2nd limb to remain but the sentences to run concurrently.

To that extent only does the appeal succeed.

Judgement read and delivered in open Court this 11th day of April, 2013.

**M. MUYA
JUDGE**

In the presence of:-

Mr. Gioche for State

Accused - present

Court clerk – Mr. Philip