



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**

**Criminal Appeal 145 of 2008**

**(From original conviction and sentence in Criminal Case No.2917 of 2008 of the Chief Magistrate's court at Nakuru – W. M. KAGENDO, SRM)**

**WILSON GITAU.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

Upon his own plea of guilty to a charge of breaking into a building and committing a felony contrary to **Section 306(a)** of the **Penal Code**, **WILSON GITAU**, the appellant was convicted and sentenced to four years imprisonment. He has appealed against that sentence. His submission before me during the hearing of the appeal were in effect a plea of mitigation seeking a reduction of the sentence. He stated that he was left with orphans after his brother's death and pleaded for the reduction of sentence so that he can go home and take care of them. Mr. Njogu for the state left the issue of sentence to me.

I have considered the appellant's plea. The offence he was convicted of carries a maximum sentence of seven years imprisonment. Having been incarcerated since 16<sup>th</sup> June 2008 and given his family responsibilities, I think he has had enough punishment. I therefore reduce his sentence to such a term as will secure his immediate release. The appellant shall therefore be released forthwith unless otherwise lawfully held.

**DATED and delivered this 3<sup>rd</sup> day of November, 2009.**

**D. K. MARAGA**

**JUDGE.**