

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO.722 OF 1998

**(From Original Conviction and Sentence in Criminal Case No.4627 of 1998
of the Principal Magistrate's Court at Kibera: J.W. Ondieki (Mrs.))**

EDWIN ONG'AMO MAHOA.....APPELLANT

-Versus-REPUBLIC.....RESPONDENT

Coram: Osiemo J.

Mr. Masinde for the appellant

Mr. Gikonyo -State Counsel for the State

Mr. Onduma -Court Clerk

JUDGMENT

The appellant was charged with the offence of house-breaking and stealing contrary to sections 304 (1) and 279 (b) of the Penal Code. He pleaded guilty, was convicted and sentenced to 2 years imprisonment. His appeal to this court is against sentence only. Counsel for the appellant submitted that the appellant is 18 years old and a form 3 student at Muhila Secondary School in Western Province which fact was not brought to the trial magistrate. In view of the fact that the appellant is a student and barely 18 years old, the learned state counsel does not oppose the appeal.

I allow the appeal and reduce the sentence to the period already served I order that the appellant be set at liberty forthwith unless held for any other lawful cause.

Delivered and dated at Nairobi this 9th day of July, 1998.

J.L.A. OSIEMO

JUDGE