



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

APPELLATE SIDE

CRIMINAL APPEAL NO 134 OF 1982

(From Original Conviction and sentences in Criminal Case No 522 of 1982 of the Resident

Magistrate's Court at Eldoret – JLA Osiemo Esq)

SAMUEL MWAMBALO MUKUYA ..... APPELLANT

Versus

REPUBLIC ..... RESPONDENT

**JUDGMENT**

The appellant is charged on four counts. In the first and second he is charged with burglary and stealing contrary to Section 304(2) and 279(b) of the Penal Code (Cap 63). Alternative to the two counts he is alleged to have handled stolen property contrary to Section 322(2) of the Penal Code (Cap 63). In the third count he is charged that he stole from a person contrary to Section 279(1) of the Penal Code (Cap 63). In the fourth, he was charged with the offence of failing to register as an alien contrary to Section 3(1) of the Registration of Persons Act, Cap 173. At commencement of trial he pleaded guilty over the last count and was sentenced to three months' imprisonment. At the end of trial he was convicted on counts 1, 2 and 3. He was sentenced to eighteen months' imprisonment on each count; sentences to run concurrently. Appellant was in addition to receive six strokes of corporal punishment. The trial Magistrate recommended the appellant to be repatriated to his home after serving his sentence. There was sufficient evidence on which the learned trial Magistrate based his convictions. Learned Counsel for Republic supports convictions and sentence. I dismiss the appeal against conviction and sentence.

I would only add that the sentences were manifestly lenient. But since the Republic did not seek enhancement I will not disturb them. I would only order that the sentence of imprisonment on counts 1, 2 and 3 will run concurrently with that on count 4. The learned trial Magistrate appears to have forgotten to so order.

*Delivered at Eldoret this 20th day of September 1982*

**W. MBAYA**

**JUDGE.**