

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NYERI**

**HIGH COURT CRIMINAL REVISION CASE NO. E054 OF 2025**

**BRIAN MWANGI MUKOMO.....1<sup>ST</sup>**

**APPLICANT**

**ANTHONY WACHIRA MWANGI.....2<sup>ND</sup>**

**APPLICANT**

**-VERSUS-**

**REPUBLIC.....PROSECUTOR**

**RULING**

1. The two Applicants **BRIAN MWANGI MOKOMO** and **ANTHONY WACHIRA MWANGI** have jointly filed this application dated **11<sup>th</sup> February 2025** seeking review of their sentences.
2. The Applicants had been charged in the Magistrates Court in **Nyeri** in **CMCC No. 053 of 2025** with Count No. 1 of **HOUSEBREAKING CONTRARY TO SECTION 304 (1) (a) OF THE PENAL CODE**. The particulars of the charge were that

**“On the 26<sup>th</sup> day of December 2024 at classic area in Nyeri Central Sub-County within Nyeri County, you jointly broke and entered into the dwelling house of PETER MAINA WANJIKU with intent to steal from therein.”**

3. The Applicant faced a second count of **STEALING FROM A DWELLING HOUSE CONTRARY TO SECTION 268(1)** as read with **SECTION 279(b) OF THE PENAL CODE**. The particulars of the charge were that

**“On the 26<sup>th</sup> day of December 2024 at classic area in Nyeri Central Sub-County within Nyeri County you stole from the dwelling house of PETER MAINA WANJIKU a play station, amplifier, a suitcase gaming pods and a toll bag all valued at Kshs. 150,000/= the property of PETER MAINA WANJIKU.”**

4. Lastly the applicants faced an alternative charge of **HANDLING STOLEN GOODS CONTRARY TO SECTION 322(1)** as read with **SECTION 322(2) OF THE PENAL CODE**.

5. The Applicants both pleaded '**Guilty**' to the charge. The facts were read out to them and the applicants maintained their plea of Guilty. They were both convicted on Counts 1 and 2.
6. Thereafter the Applicants were granted an opportunity to mitigate. The trial magistrate **HON. OBARA** Senior Principal Magistrate called for a pre-sentence report.
7. Finally on **6<sup>th</sup> February 2025** the trial court sentenced both applicants on **Count No. 1** to a fine of Kshs. 30,000/=, and in default to serve 1½ years in prison. On **Count No. 2** the two were fined Kshs. 30,000/= in default to serve 1½ years in prison.
8. The Applicants now seek review of their sentences. The **ODPP** opposed any review of sentence.
9. The High Court is empowered by **Article 165 (6)** of the **Constitution of Kenya 2010** to review a decision made by a subordinate Court, as follows:-

**“The High Court has Supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function but not over a Superior Court.”**

10. The Power of the High Court to review sentences is set out in

**Section**

**362** of the **Penal Code, Cap 63 Laws of Kenya** which provides as follows:-

**“The High Court may call for and examine the record of any criminal proceedings before any subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings in any such subordinate court.”**

11. The orders which the High Court may make upon revision are provided

by **Section 364** of the **Penal Code**.

12. I have carefully perused the record of the proceedings in the Lower

Court. I am satisfied that the applicants were accorded their trial rights. The facts were clearly read out and the applicants both pleaded **Guilty**.

13. Upon conviction both were accorded an opportunity to mitigate. A pre-sentence report was filed in court. The trial magistrate indicated that she had considered their mitigation as well as the probation report.
14. The sentence imposed by the trial court was in my view appropriate given the value of the stolen goods. The applicants were given the option to pay a fine. I am not inclined to interfere with these sentences.
15. Finally I find there was no breach of procedure such as to warrant a Revision of sentence. I find no merit in this application and the same is dismissed in its entirety. The sentences imposed by the trial court are hereby upheld and confirmed.

**Dated in Nyeri this 28<sup>th</sup> day of November 2025**

.....  
**MAUREEN A. ODERO**  
**JUDGE**

ORIGINAL