



REPUBLIC OF KENYA



KENYA LAW
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**Gichuki v Republic (Criminal Revision E325 of 2025)
[2025] KEHC 17933 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17933 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E325 OF 2025
RN NYAKUNDI, J
DECEMBER 3, 2025**

BETWEEN

ROBERT MBUGUA GICHUKI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged of store breaking and committing a felony contrary to Section 306(a) of the penal code. The brief facts are on the 15th day of December, 2018 in Eldoret township within of Eldoret West sub County within Uasin Gishu County broke and entered a building namely a store of Charles Ndirangu and committed therein a felony namely stealing and did steal three boxes of eight mug cups, one of food flask, one box metal flask, five boxes of plastic flask, five boxes of caure Jinsen mugs, two boxes of luminar mugs, two boxes of steel plates, two boxes of stoves, two boxes of extra 12/15 big sufurias, two boxes of 12/23 big sufurias, two boxes of ring plates, one box of 12/15 red sufuria, one box of steel bowl, one box of plate oval and one box of plate B.coz all valued at Kshs. 204,085/= the property of Charles Ndirangu.
2. The applicant was charged on the second count on the charge of handling stolen goods contrary to section 322 (1)(2) of the penal code. The brief facts are on the 25th day of January 2019 in Eldoret township of Eldoret West sub county within Uasin Gishu county otherwise than in the cause of stealing dishonestly retained five pieces of eight mugs, two pieces of food flask, two pieces of metal flask, four Pieces of flask 3.2 litres, ten pieces of flask 1.8 litres, twelve pieces of flask 1 litre, jinsen cups one set, brown mugs six sets, white mugs six sets having reason to believe them to be stolen goods.
3. The Applicant pleaded guilty and was sentenced to a fine pf Kshs. 100,000/= in default 12 months' imprisonment on 22nd September 2025.



4. The applicant seeks a sentence review. He prays that he may be allowed to serve a non-custodial sentence. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
- a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
 - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
 - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - d) Protection of the community: - where the offender is likely to pose a threat to the community.
 - e) Offender's responsibility to third parties: - where there are people depending on the offender.
5. I have considered the offence in question and the aggravating factors. The sentencing objectives in Kenya have been captured in the Sentencing guidelines 2023 to be the following: -
- i. "Retribution: to punish the offender for his/her criminal conduct in a just manner.
 - ii. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
 - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
 - v. Community protection: to protect the community by incapacitating the offender.
 - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation: To mend the relationship between the offender, the victim and the community.
 - viii. Reintegration: To facilitate the re-entry of the offender into the society.
6. Having considered the aforementioned sentencing objectives and factors for non-custodial sentences, I am satisfied that the applicant is a suitable candidate for probation. The applicant has demonstrated remorse by pleading guilty and has already served a period in custody which has had a reformatory effect on his character. Considering that he is a first offender and taking into account the principles of rehabilitation and reintegration, I am persuaded that a probation order will serve the interests of justice better than continued incarceration. Accordingly, I hereby set aside the custodial sentence and place the applicant on probation for the remaining balance of the sentence, taking into account the period already served in custody.
7. The applicant shall report to the Probation Officer at Eldoret within seven days and shall comply with all directions given by the Probation Officer including participation in victim-offender mediation, counselling, and any rehabilitative programmes. The applicant is warned that any breach of probation conditions or commission of any offence during the probation period shall result in immediate



revocation of this order, and the Court shall be at liberty to re-sentence him to serve the full term of imprisonment.

8. Orders accordingly.

SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 3RD DAY OF DECEMBER, 2025.

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R. NYAKUNDI

JUDGE

