

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

HIGH COURT CRIMINAL REVISION CASE NO. E047 OF 2025

JOHN MWANGI KARIUKI.....

APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

1. The Applicant herein **JOHN MWANGI KARIUKI** has filed this application seeking a review of his sentence. The Applicant had been charged in the Lower Court with the offence of **BREAKING INTO A BUILDING AND COMMITTING A FELONY CONTRARY TO SECTION 306(a) OF THE PENAL CODE**. The particulars of the offence were that

“On the night of 26th December 2024 at Kawara Centre Kieni West Sub-County within Nyeri County, you broke and entered into an onion store the property of LUKA KIMATU MBURU and committed a felony therein namely stealing.”

2. The Applicant faced a second Count of **STEALING CONTRARY TO SECTION 288(1) as read with SECTION 279(b) PENAL CODE**. Finally the Applicant faced an alternative charge of Handling Stolen property.
3. The Applicant entered a Plea of '**Guilty**' to Count Nos. 1 and 2. The facts were read out to him and the Applicant maintained his plea of Guilty. The court then proceeded to convict the applicant on the two Counts. Following mitigation, the Applicant was sentenced to serve **four (4) years** imprisonment on each count. The Appellant has now sought review of those sentences.
4. 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.”

5. The orders which the High Court may make upon revision are provided by **Section 364** of the **Penal Code**.
6. I have carefully perused the record of the proceedings in the Lower Court. I am satisfied that the trial was properly conducted. The applicant entered a plea of guilty to both counts. The facts were read out and the applicant maintained his plea of Guilty. I am satisfied that the applicant was properly convicted.
7. I have considered the record of proceedings before the Lower Court. I note that the Applicant pleaded ‘Guilty’ thereby saving the court from the rigors of a full trial. The value of the stolen property was about **Kshs. 20,000/=** therefore a fine could have been appropriate. The ODPP does not oppose this application for review.
8. Finally I do allow this application, I set aside the sentences of four (4) years imposed by the trial court. Instead I sentence the Applicant to serve a term of **two (2) years** imprisonment

on both Count Nos. 1 and 2. Sentences to run from the date of Conviction in the Lower Court. It is so ordered.

Dated in Nyeri this 13th day of February 2026.

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MAUEREEN A. ODERO
JUDGE

ORIGINAL