



REPUBLIC OF KENYA



KENYA LAW
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**Mumo v Republic (Criminal Revision E058 of 2025)
[2026] KEHC 4106 (KLR) (26 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4106 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL REVISION E058 OF 2025
RC RUTTO, J
MARCH 26, 2026**

BETWEEN

BERNARD MBURU MUMO APPLICANT

AND

REPUBLIC RESPONDENT

(Arising from the conviction and sentence of three years imprisonment by Hon D. Kioko (RM) in criminal case file No E116 of 2025 at Kagundo Law Court)

RULING

1. The applicant has moved this court by way of a Notice of Motion seeking review of the sentence of three years' imprisonment imposed in Kangundo Criminal Case No. E116 of 2025. The Application is supported by the applicant's affidavit and the grounds that he is willing to abide with any condition that may be imposed by the Court; he is a family man and comes from a poor family; he has learnt the value of patience and honesty; he is the sole bread winner of his young family and overly aged parents and that he has reformed and has been rehabilitated by the prison system.
2. The Application was opposed. The respondent identified the sole issue for determination as whether the sentence imposed by the trial court was proper. They submitted that the sentence awarded was the least severe sentence that could be awarded given that the act prescribes a 14year imprisonment term. They underscored the courts limited discretion in resentencing and urged the court to find that the petition is devoid of merit and dismiss the application in it entirety.
3. The record indicates that the applicant together with three other accused persons, was charged before the trial court. The applicant herein was the 1st accused and faced count 3 namely the offence of handling stole goods contrary to section 322(1)(2) of the Penal Code. The particulars of the charge were that on the 30th day of January 2025 at Tala township Matungulu Sub-County within Machakos County, otherwise in the course of stealing dishonestly received or retained a set of melamine cups and



a set of redberry Melamine plates knowing or having the reason to believe them to be stolen goods or unfairly obtained.

4. The applicant pleaded guilty to the charge. The facts were read and upon admission, the applicant was convicted on his own plea of guilt. The trial court considered his mitigation and the probation officer's report before sentencing him to three years' imprisonment or in the alternative a fine of kshs.60,000/-.
5. Section 322(2) of the Penal Code provides "a person who handles stolen goods is guilty of a felony and is liable to imprisonment with hard labour for a term not exceeding fourteen years." The sentence of three years imposed was therefore well within the statutory limits. It cannot be deemed excessive when measured against the gravity of the offence and the prescribed maximum penalty.
6. Notably, the applicant has not demonstrated any error of principle, misdirection, or illegality in the exercise of discretion by the trial court. His plea for leniency, unsupported by any legal or factual basis, is insufficient to invoke this court's revisionary jurisdiction. The sentence was lawful, proportionate, and properly informed by both the facts and the probation officer's report.
7. Sections 362 and 364 of the Criminal Procedure Code empowers the High Court to call for and examine the record of any criminal proceedings before a subordinate court to satisfy itself as to the correctness, legality, or propriety of any finding, sentence, or order. The jurisdiction is not to be exercised routinely or as a matter of course, but only where there is a patent defect, gross error, or illegality. this was emphasized in *Kibet & 2 others v Republic 3* [2023] KEHC 24772 (KLR), where the court stated that, revisionary powers are meant to correct glaring errors of law or jurisdiction, not to substitute the court's discretion merely because an accused is dissatisfied with the outcome.
8. I find that the sentence of three years' imprisonment imposed by the trial court was lawful, proper, and lenient given the gravity of the offence and the statutory maximum of fourteen years.
9. The Application is dismissed.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 26TH DAY OF MARCH, 2026.

RHODA RUTTO

JUDGE

In the presence

.....Applicant

.....Respondent

Selina Court Assistant

