



**Wagura v Republic (Criminal Revision E024 of 2023)
[2024] KEHC 6045 (KLR) (27 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6045 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL REVISION E024 OF 2023**

MA ODERO, J

MAY 27, 2024

BETWEEN

PAUL KARIMI WAGURA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein Paul Karimi Wagura has applied to have the sentence imposed on him reviewed.
2. The Applicant had been charged with the offence of Breaking into a building and committing a Felony contrary to Section 306 (a) of the [Penal Code](#) Cap 63 Laws of Kenya.
3. The particulars of the charge were that on diverse dates between 6th and 7th December, 2023 at Belleview Trading Center in Kieni West Sub-County within Nyeri County the Applicant jointly with others before court broke and entered into ASIP Building with intent to steal.
4. The Applicant faced an alternative charge of Handling Stolen Property contrary to Section 322 (1) as read with Section 322 (2) of the [Penal Code](#).
4. The Applicant pleaded 'Not Guilty' to the main charge but entered plea of 'Guilty' to the alternative charge.
5. The Learned trial magistrate thereafter sentenced the Applicant to serve a fine of Kshs. 50,000 or to serve two (2) years imprisonment. The Applicant now prays to have that sentence reviewed.
6. The Hon. DPPP opposed the application for review of sentence.



7. The powers of the High Court to review sentence is provided by Section 362 of the *Criminal Procedure Code* Cap 75 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 of any such subordinate court.

8. I have considered the facts of this case as well as the submissions filed by both parties. The Applicant pleaded guilty to the charge and maintained this plea even after the facts were read out.

9. Although the Applicant was a first offender the charge is serious. I am therefore not inclined to interfere with the sentence as imposed by the trial court.

10. Having said that I note that the Applicant was in custody from the time of his arrest on 9th December, 2022 to the date of his sentencing which was 7th March, 2023 being a period of approximately three (3) months. I direct that the three (3) month period the applicant spent in custody be deducted from his sentence.

11. It is so ordered.

DATED IN NYERI THIS 27TH DAY OF MAY, 2024.

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MAUREEN A. ODERO

JUDGE

