

**IN THE HIGH COURT OF MALAWI**  
**PRINCIPAL REGISTRY**  
**CONFIRMATION CASE NO. 342 OF 2006**

**BETWEEN:**

**THE REPUBLIC**

**AND**

**AFIKI JAFALI**

**(From the First Grade Magistrate Court sitting at Liwonde being Criminal Case No. 201 of 2005)**

**CORAM: HONOURABLE JUSTICE M. L. KAMWAMBE**

M/S Ng'ong'ola of Counsel for the State

Mrs Mangisoni Official Interpreter

**RULING**

**Kamwambe, J**

The accused was charged with the offence of burglary and theft contrary to sections 309 (a) and 278 of the penal Code respectively. He was sentenced to 10 years IHL on the 1<sup>st</sup> count and 2 years IHL on the 2<sup>nd</sup> count. When he broke into the house he stole a bicycle, blanket, towel and a radio. The case was set down to consider reduction of sentence on the 1<sup>st</sup> count as it appeared to be grossly excessive.

The accused is a 1<sup>st</sup> young offender at 21 years who pleaded guilty to the offence. Starting point for the offence of burglary is 6 years IHL to be increased or decreased according to aggravating or mitigating circumstances. The accused gained entry into the house through a window. No evidence of serious damage when breaking into the house exists. In my view there are more mitigating factors than aggravating ones. I therefore substitute the sentence of 10 years IHL to one of 48 months.

***Made in Chambers*** this 22<sup>nd</sup> March 2007 at Blantyre.

M L Kamwabwe

**JUDGE**