IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

Confirmation Case No. 686 of 2010

THE REPUBLIC

Versus

MPHATSO MUSSA

Coram: ## HON. JUSTICE MANDA

Mbendera for the State

Defendant Present (Unrepresented)

Mrs Matekenya Court Clerk

ORDER ON CONFRIMATION

This matter was set down to consider the charge under Section 311(1) of the Penal Code conformed to the particulars of the offence which disclosed the offence of breaking and entering a dwelling house.

A quick observation is that a reading of the record does actually show that the charge of breaking into a building was split into the offences of House Breaking and Theft contrary to Sections 309 and 278 of the Penal Code, respectively. Upon redrafting the charges, the accused was asked to plead to each one of the counts and he did enter a plea of guilty on both counts and he was duly convicted and sentenced on both counts. I thus find no error in the conduct of this case and proceed to confirm the convictions on both counts.

As for the sentences I did note that the accused was 20 years old at the time that he committed these offences. He was a subsequent offender having previously committed the offences of theft and malicious damage. He was granted community service by the court for those offences but he did not complete his sentence since he did abscond. The stolen property in this instance was a cell phone which was recovered and was restored to the owner. Having read the reasoned Sentence of the court as to have it arrived at its sentences, I would give deference to the court's decision and confirm the sentence. Indeed much as I would want to believe that a stiffer punishment was warranted in this instance, I must agree that the reason behind punishment of the offender should always be reform. I am also mindful of the fact that there is congestion in the prisons and hence as courts we should endeavour to reduce the same by imposing sentences which are meaning albeit short.

Made in Open Court this........day of....................................2010

K.T. MANDA

JUDGE