



REPUBLIC OF KENYA



KENYA LAW
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**Mogaka & 2 others v Republic (Criminal Revision E042 of 2023)
[2023] KEHC 19822 (KLR) (29 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19822 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E042 OF 2023**

WA OKWANY, J

JUNE 29, 2023

BETWEEN

BRIAN ONGERI MOGAKA 1ST APPLICANT

EDWIN GEKONE ONGERA 2ND APPLICANT

CARLOS MURIASI 3RD APPLICANT

AND

REPUBLIC RESPONDENT

*((From the original Conviction and Sentence in the Chief
Magistrates' Court at Nyamira, Criminal Case No. E1340 of 2022
by Hon. B. Okong'o, Resident Magistrate on 25th January 2023))*

RULING

1. The Applicants were convicted on their own plea of guilty for the offence of stealing stock contrary to section 278 of the *Penal Code*. The trial court sentenced the 1st Applicant to pay a fine of Kshs. 5,000/= and compensate the complainant in the sum of Kshs. 16,000/= or in default, to serve 10 months imprisonment. The 2nd and 3rd Applicants were sentenced to pay a fine of Kshs. 7,000/= and ordered to compensate the complainant in the sum of Kshs. 16,000/= or in default to serve 10 and a half months prison sentence. The letter by Kennedy Okemwa the County Probation Director dated 15th June 2023 indicates that the 1st Applicant was released from Kisii GK Prison on 28th May 2023 on Presidential pardon. In the unlikely event that he is still in custody, it is hereby directed that he be released forthwith unless he be held for any other lawful cause. The revision file is hereby closed.
2. The 2nd and 3rd Applicants shall continue to serve their sentences as there is neither an Application for a review of sentence nor a recommendation by the Probation Officer on Record for the Court's consideration.



Orders accordingly.

DATED and DELIVERED at NYAMIRA on this 29th day of JUNE 2023.

W.A. OKWANY

JUDGE

