

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL APPEAL NO. 128 OF 2014

JULIUS KAYOYI M'MPIKA..... APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From the original conviction and sentence in criminal case No.3306 of 2014 of the Chief Magistrate's Court at Maua by O.Wanyaga – Resident Magistrate)

JUDGMENT

The appellant, **JULIUS KAYOYI M'MPIKA**, was convicted for the offence of stealing stock contrary to section 278 of the Penal Code.

The particulars of the offence were that on the 10th day of August 2014 at Ngaya forest, Kabachi location in Igembe North District of Meru county the appellant stole nine bulls valued at Kshs. 180,000/= the property of **SALAD SALESA DIDA**. This was after he had pleaded guilty.

He was sentenced to serve seven years imprisonment. He now appeals against both conviction and sentence.

The appellant was in person. He raised one ground of appeal as follows:

That he was framed up due to domestic problems.

The state opposed the appeal and was represented by Mr. Odhiambo, the learned counsel. He contended that the appellant was precluded from appealing by virtue of the provisions of section 348 of the Criminal Procedure Code. The section states:

No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by a subordinate court, except as to the extent or legality of the sentence.

I agree with the learned state counsel.

The number of the livestock involved is substantial and in my view the sentence by the learned trial magistrate cannot be said to be excessive. I will have no reasons to disturb it.

The appeal is dismissed.

DATED at Meru 19th day of December 2016

KIARIE WAWERU KIARIE

JUDGE