

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT VOI

CRIMINAL APPEAL NO. 6 OF 2014

(From the original Conviction and Sentence in the Criminal Case No. 171/2010 of the Principal Magistrate's Court at Voi: M.S.G. Khadambi – PM)

ERICK MWASHUMA MWALENI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant herein **ERICK MWASHUMA MWALENI** was on 25th February, 2010 arraigned before the Principal Magistrate at Voi Law Courts on a charge of **STEALING STOCK CONTRARY TO SECTION 278 OF THE PENAL CODE**. After a trial at which the prosecution called five (5) witnesses the appellant was placed on his defence. On 6th August, 2010 the learned trial magistrate delivered her judgment in which she convicted the appellant and after listening to his mitigation sentenced him to serve seven (7) years imprisonment.

In his oral submissions to the court at appeal the appellant made it clear that he is **not** challenging his conviction. He only prays that the sentence be reduced. The appellant says that he has acquired various skills in prison, he has undergone counseling and is now a reformed man. **MR. GIOCHE**, learned state counsel does not oppose the appeal against sentence.

I have carefully considered this appeal. I note that the appellant was sentenced in August, 2010 and therefore has spent almost four (4) years in custody. His full sentence was seven (7) years. The appellant remains with only a few months ten (10) months to complete his prison term. I have no doubt that he has learnt his lesson. I therefore allow this appeal and reduce the sentence to time served. The appellant is to be set at liberty unless otherwise lawfully held.

Dated and signed this 23rd day of June, 2014.

MAUREEN A. ODERO

JUDGE

Read and delivered at Voi High Court this 3rd day of July, 2014.

MARTIN MUYA

JUDGE