

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Criminal Appeal 304 of 2009

(From original conviction and sentence in Criminal Case No.2108 of 2008 of the Principal Magistrate's court at

Molo – S.M.S. SOITA, PM)

GEOFFREY KIBET BASUBEN.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

GEOFFREY KIBET BASUBEN, the appellant was charged with the offence of stock theft contrary to **Section 278** of the **Penal Code**.

When he appeared before court on

11th September 2009 for plea, he pleaded not guilty and was remanded pending the hearing. When his case was mentioned on 9th October 2009 he changed his plea and pleaded guilty to the charge upon which he was convicted and sentenced to seven years imprisonment. He has appealed against both the conviction and sentence.

Although in the circumstances his appeal should have been against sentence only, as I have said he has also appealed against conviction. In his submissions he contends that he did not understand the charge because it was not interpreted into his mother tongue, Kipsigis language, which he says is the only language he understands. He also contends that he was misled in the remand prison to plead guilty. On sentence he argues that the same is excessive and extremely harsh. He therefore prays that the conviction be quashed and the sentence be set aside.

I find no merit in the appeal against conviction. The record shows that the charge was read to the appellant in Swahili language and he pleaded guilty. After that the facts were read out and he confirmed that they were true. Therefore his claim that the proceedings were not interpreted to the language he understands is clearly an afterthought. I dismiss his appeal against conviction.

The offence of stock theft carries a sentence of 14 years imprisonment. The sentence of seven years imprisonment imposed upon the appellant is therefore not harsh. However, because the appellant is only twenty years old and remorseful I reduce the sentence to three years imprisonment.

Save for the reduction of sentence as stated above this appeal is dismissed in its entirety.

DATED and DELIVERED this 27th day of April, 2010.

D. K. MARAGA

JUDGE.