



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**

**Criminal Appeal 257 of 2009**

**ERICK OLE KIJABE.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

**ERICK OLE KIJABE**, the appellant, was with another charged with the offence of stealing contrary to **Section 275** of the **Penal Code**.

The particulars of the charge against them were that on 15<sup>th</sup> March 2008 at Upper Mejengo in Narok North District within Rift Valley Province they jointly stole Kshs.35,000/- from Daniel Swankei Kenga. The co-accused pleaded guilty and was convicted and sentenced to two years imprisonment or to pay a fine of Kshs.20,000/-. The appellant pleaded not guilty but after trial before the Senior Resident Magistrate at Narok he was convicted and sentenced to two years imprisonment. He appealed against both the conviction and sentence.

At the hearing the appellant abandoned the appeal against conviction and prayed for the reduction of sentence arguing that he is sick and he has children who depend upon him. Mr. Nyakundi for the state left the matter to me.

The complainant took the appellant and his co-accused to his home after missing a room at Enegetia Boarding and Lodging. Instead of being grateful the two abused the hospitality by stealing Kshs.35,000/- from the complainant. In the circumstances the sentence of two years imprisonment is not harsh. Consequently I dismiss this appeal.

**DATED and DELIVERED this 26<sup>th</sup> day of May, 2010.**

**D. K. MARAGA**

**JUDGE.**