



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Criminal Appeal 158 of 2007
*(From original conviction and sentence in Criminal Case No.55 of 2007
of the Senior Resident Magistrate's court at Maralal – M. K. N. NYAKUNDI, SRM)*

DAVID LENGINGIRO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

DAVID LENGINGIRO, the appellant, was with another charged with the offence of stock theft contrary to **Section 278** of the **Penal Code**. He pleaded not guilty but after trial before the Senior Resident Magistrate at Maralal he was convicted and sentenced to seven years imprisonment. He appealed against both the conviction and sentence.

At the hearing he abandoned the appeal against conviction and pleaded for the reduction of sentence. He submitted that being the first born he is the bread winner of the family as his father is disabled. He said in prison he has been studying and hopes to sit for KSCE at the end of this year.

Mr. Nyakundi for the state left the matter to me remarking that the sentence of seven years imprisonment against fourteen years imprisonment provided by the section under which the appellant was charged cannot be said to be harsh.

I have read the file and considered the appellant's plea. Taking into account the fact that the stolen bull was recovered and the appellant's incarceration since 22nd February 2007 I find that the appellant has had enough punishment. In the circumstances I allow his appeal and reduce the sentence to such a term as will secure his immediate release. The appellant shall therefore be released forthwith unless otherwise lawfully held.

DATED and DELIVERED this 13th day of July, 2010.

D. K. MARAGA

JUDGE.