

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO. 3 OF 2010

(From original conviction and sentence in Criminal Case No. 2931 of 2009 of the Principal Magistrate's Court at Nyahururu - C. K. Obara (R.M.) dated 17th December, 2009)

MICHAEL WAITHAKA

NDEREVA.....

.....APPELLANT

VERSUS

REPUBLIC.....

.....REPUBLIC

JUDGMENT

CRIMINAL PROCEDURE AND PRACTICE - Plea of guilty - appeal against - only to the ground of extent and legality of sentence - S. 348 Criminal Procedure code (Cap. 75 Laws of Kenya).

JUDGMENT

The appellant was charged with the offence of **having carnal knowledge of an animal** contrary to **section 162(b) of the Penal Code**. The Appellant pleaded guilty to the offence and a plea of guilty was entered against him. After the facts were read to him the Appellant confirmed the facts as read were true. The trial court thereafter confirmed the plea of guilty and convicted him. The Appellant was asked whether he had anything to say in mitigation. The Appellant told the court - "***I am praying for forgiveness.***"

The charge was properly framed. The plea was properly taken. The requirements where an accused person pleads guilty as laid down in the case of **ADAN vs. REPUBLIC [1973] E.A. 445** were met.

The punishment for the offence of having carnal knowledge with an animal is a term of fourteen (14) years. The Appellant was sentenced to six (6) years. I have no reason to interfere with either the legality of the sentence or the extent thereof under Section 348 of the Criminal Procedure code (*Cap. 75, Laws of Kenya*).

I confirm the conviction and sentence by the lower court and I dismiss the appeal as it has no merit all.

There shall be orders accordingly.

Dated, delivered and signed at Nakuru this 30th day of September 2010

M. J. ANYARA EMUKULE
JUDGE