

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL APPEAL 197 OF 2005

BERNARD MWANGI MBOGO APPELLANT

versus

REPUBLIC RESPONDENT

(Being appeal against the sentence by P. NDITIKA, Senior Resident Magistrate, in the

Senior Resident Magistrate's Criminal Case No. 2527 of 2003 at Kerugoya)

JUDGMENT

The Appellant in the lower court was charged with stealing stock contrary to **Section 278** of the Penal Code. After the trial he was convicted and sentenced to 3 years imprisonment. He filed the present appeal against conviction and sentence. When the appeal came up for hearing the Appellant abandoned his appeal against conviction and instead proceeded with his appeal against sentence. In his submissions the Appellant said that since his imprisonment he had changed his character and that he was now a born against Christian. The appeal on that ground was not opposed by the state. When the appellant was convicted on 19th May 2005, the court found that he was unsuitable for probation.

I have considered the offence that the Appellant was convicted on by the lower court and I have also considered the mitigation he submitted on that conviction and the mitigation before this court. I find that it is proper for the court to reconsider the sentence imposed by the lower court and in that regard this court does hereby substitute the appellant's sentence from the 3 years imposed by the lower court to 2 years imprisonment. The two years of imprisonment that this court substitutes in this appeal shall begin to run from the date of conviction by the lower court. Those then are the orders of this court.

DATED AND DELIVERED THIS 22ND DAY OF JANUARY, 2008.

MARY KASANGO

JUDGE