

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
OF KISII**

Criminal Appeal 188 of 2007

JOASH OTIENO ONDIANY APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From original conviction and sentence of the Senior Resident Magistrate's Court at

Homa Bay, Criminal Case No.1267 of 2007 by S. M. MWENDWA, RM)

JUDGMENT

The appellant was charged with **Stealing Stock** contrary to **Section 278** of the **Penal Code**. He was alleged to have stolen a bull on 5th November, 2007. He pleaded guilty to the said charge. He was convicted and sentenced to seven years' imprisonment. He appealed against the conviction and sentence. However, his plea was unequivocal and no appeal can lie against the same.

As regards sentence, Mr. Kemo, Principal State Counsel, conceded that the same was harsh for a first offender. He also pointed out that the stolen animal was recovered.

I agree with Mr. Kemo. The appeal against sentence is allowed and the same is reduced to one-year imprisonment.

DATED, SIGNED and DELIVERED at KISII this 28th day of April 2008.

D. MUSINGA

JUDGE

Delivered in open court in the presence of:

Mr. Kemo, Principal State Counsel for Republic

N/A for appellant

D. MUSINGA

JUDGE