

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL APPEAL 157 OF 2006

ISAAC NDUGNGU MARY.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

ISAAC NDUNGU MARY, the Appellant was upon trial before the Resident Magistrate at Nyahururu on a charge of stock theft contrary to **Section 278** of the **Penal Code** convicted and sentenced to 7 years imprisonment. He has appealed against both the conviction and sentence. When the matter came for hearing before me on 4th July 2008, he abandoned the appeal against conviction and pleaded for the reduction of the sentence. He said he is remorseful and that he is now a reformed man. He also said that he is married with three children who, together with his aged mother, are dependant upon him. Mr. Mugambi for the state said that the Appellant having abandoned the appeal against conviction he leaves the matter of sentence to the court.

The Appellant was wise in abandoning the appeal against conviction. Having been found trying to sell the stolen bull his appeal against conviction could definitely have failed. I have considered his mitigating factors and the fact that he is a first offender and the stolen bull was recovered. I have also taken into account the fact that he has been incarcerated since 15th September 2005, a period of nearly three years. In the circumstances I allow his appeal against sentence and reduce his sentence to a term that will secure his immediate release. The Appellant shall therefore be released forthwith unless otherwise lawfully held.

DATED and delivered at Nakuru this 10th day of July 2008.

D. K. MARAGA

JUDGE