



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Criminal Appeal 10 of 2005

[From original conviction and sentence in Criminal Case No. 5382 of 2004 in the Senior Principal Magistrate's Court at Nyahururu Kathoka Ngomo – S.P.M.]

REPUBLIC.....APPELLANT

VERSUS

WANYEKI NJUGUNA.....RESPONDENT

JUDGEMENT

The appellant was charged with the offence of handling stolen goods contrary to section 322(2) of the penal code. The particulars of the charge stated that on the 23rd day of December, 2004 at Gatondo village in Nyandarua District within central Province, otherwise then in the course of stealing dishonestly received or retained two bicycles, knowing or having reason to believe them to be stolen goods.

The appellant was convicted on his own plead of guilty and sentenced by the Senior Principal Magistrate at Nyahururu to five years imprisonment.

During the hearing of this appeal, the appellant pleaded with this court to reduce the sentence imposed upon him on the grounds that he was reformed since he was incarcerated in lawful custody since 30th December, 2004. He urged the Court to consider the mitigation he offered before the lower court and the fact that he was forced by circumstances to commit the offence. Now that he has reformed he is ready to become a useful member of the society and to feed for his family. This appeal was opposed by the learned Senior State Counsel. Mr. Koech on behalf of the State.

I have considered the facts of this matter and the circumstances of the appellant who is fairly young man and the fact that the stolen items were uttered to be lawful owner and more so the fact that the appellant has been rehabilitated and intends to become a useful member of the society, moreover out of the period of 5 years the appellant has served two years which I consider to be adequate punishment. Accordingly, I hereby reduce the sentence of 5 years and commute the same with the period served.

The appeal is hereby allowed and unless the appellant is otherwise lawfully held, he is set at liberty in

regard to the conviction and sentence imposed on him in this matter.

It is so ordered.

Judgement read and signed in Nakuru this 9th day of August, 2006.

MARTHA KOOME

JUDGE

9.8.2006

Before: Martha Koome

Mwiti: Court Clerk

Gumo for the state

Appellant present

Judgement read and signed in Nakuru on 9th August, 2006.

MARTHA KOOME

JUDGE