



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**  
**CRIMINAL APPEAL NO.115 OF 2004**

**(From original conviction and sentence of the Senior Resident Magistrate's Court at Nyamira in Criminal Case No.141 of 2004 - K. W. KIARIE ESQ., P.M.)**

**ELIJAH KAGIRI MAINA ..... APPELLANT**  
**VERSUS**  
**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

The appellant was convicted on his own plea of guilty for the offence of stock theft c/s.278 P.C. before the Principal Magistrate Nyamira and sentenced to 3 years imprisonment. The particulars were that on 20th February 2004 at Bonyakoni sub location in Nyamira he stole one goat valued at shs.1,200/= property of CHRISTINA NYAMOITA MAINA. He now appeals against the sentence.

Mr. Soire submitted that the goat stolen was worth shs.1200/= and belonged to the appellants mothers. He pleaded guilty to the offence and pleaded for leniency. He was however sentenced to 3 years imprisonment which is harsh and excessive.

The offence appellant was convicted of is serious and carries a maximum sentence of 14 years imprisonment. The fact that the goat belonged to the appellant's mother does not reduce the granting of the offence. However as submitted he pleaded guilty. The value is only shs.1200/= and he pleaded for mercy. Three years imprisonment was harsh and excessive. I therefore set the said sentence aside and substitute it with one for one (1) year imprisonment.

It is so ordered.

**KABURU BAUNI**  
**JUDGE**  
**19/7/04**

Dated and delivered on 19th July 2004.

**KABURU BAUNI**  
**JUDGE.**

