

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO.8 OF 2001

**(From original conviction and sentence in Criminal
Case No.15/2001 of the Senior Resident Magistrate's
Court at NAROK –S. K. KOROS(R.M.)**

**MORIANKA OLE MAKO.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

J U D G M E N T

The Appellant appeals against the sentence imposed against him in Narok SRM's Court. He had pleaded guilty to a charge of STEALING STOCK contrary to Section 278 of the Penal Code and sentenced to 5 years imprisonment. He had urged the court to review the sentence on grounds he was a first offender, had admitted the charge and was remorseful. The appeal is unopposed.

I do agree that the Appellant was treated as a first offender. The cow he stole was recovered. He pleaded guilty and saved the court's time. He is remorseful for this offence.

Even though the sentence of 5 years imprisonment was on the higher side, the sentence imposed did not meet the requirements of Section 278 of the Penal Code. Under that Section, in addition to a term of imprisonment not exceeding 14 years, the offender is liable to corporal punishment.

Under provisions of Section 354 of the Criminal Procedure Code, I alter the sentence imposed against the Appellant by reducing the imprisonment to 2 1/2 years and add 1 stroke of the cane. Appeal succeeds to that extent.

Dated and delivered at Nakuru this 18th day of March, 2003.

**JESSIE LESIIT
JUDGE**