

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO.1184 OF 1999

**(From Original Conviction and Sentence in Criminal Case No.3124 of 1998
of the Chief Magistrate's Court at Thika**

**STANLEY NJUKI NGANGA.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

JUDGMENT

The appellant now admits that he jointly with others robbed the complainant but has asked me to substitute the conviction for simple robbery. The evidence was that the complainant was robbed of a blanket, two bed sheets and few other household items worth about Sh.8,900/- and was injured on his thigh during the course of the robbery on 30-9-98. The appellant was arrested the same day and charged for capital robbery. It be noted that the property robbed was worth about Sh.8,900/- and the complainant's injury was classified as harm. In my considered view the Police should have charged the appellant for simple robbery.

The appellant was in remand for a little over a year. He had no previous counts. There is no remission for robbery sentence. ORDER: I substitute the conviction for robbery, contrary to section 296(1), P.C. and set aside the death sentence. I sentence the appellant to two years imprisonment with effect from 22-10-99 plus 2 strokes.

**Dated and delivered at Nairobi this 14th day of February, 2001.
V.V. PATEL
JUDGE**