

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO 69 OF 2017

BERNARD MWINGIRWA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 08/05/2017 in Nanyuki CM Criminal Case No 653 of 2017 – L Mutai, CM)

J U D G M E N T

1. The Appellant herein, **BERNARD MWINGIRWA**, was convicted upon his own plea of ***stealing by servant*** contrary to **section 281** of the ***Penal Code***. On 08/05/2017 he was sentenced to 3½ years imprisonment. He appealed only against the sentence.
2. The Appellant stole from his employer one water pump (valued at KShs 50,000/00) and one air compressor (valued at KShs32,000/00). Both items were recovered.
3. The Accused was a first offender who pleaded guilty. Notwithstanding that the offence carried a maximum of seven (7) years imprisonment, I respectfully agree with the learned prosecution counsel that the sentence of 3½ years imprisonment meted out was manifestly harsh and excessive.
4. I will in the circumstances partially allow the appeal against the sentence by setting the same aside and substituting therefor two (2) years imprisonment from the date of sentencing, that is, 08/05/2017. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 29TH DAY OF SEPTEMBER 2020

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 8TH DAY OF OCTOBER 2020