



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL APPEAL NO.180 OF 2017

(Appeal Originating from Nyahururu CM's Court Cr.1272 of 2017 by: Hon. V. Ochanda- RM)

REUBEN KINYENGWAK.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

J U D G M E N T

Reuben Kinyengwak, the appellant, was convicted by Hon. Ochanda R.M. Nyahururu for the offence of stealing stock Contrary to Section 278 of the Penal Code.

The particulars of the charge are that on 24/7/2017 at African Location Area, in Laikipia County, stole 11 sheep and 5 goats all valued at Kshs.68,000/= the property of **Jane Waithera Cheruiyot**.

When the appellant appeared before the court for plea, he pleaded guilty to the offence, was convicted and sentenced to five (5) years imprisonment.

The appellant appealed against both conviction and sentence but at the hearing of the appeal, he abandoned the appeal on conviction.

He prays for leniency because he was a student at Rumuruti Day in Class 8 and wishes to continue with education and that the sentence be reduced.

Ms. Rugut, learned counsel for the State, opposed the appeal and urged that though the appellant pleaded guilty, he was not remorseful; that he was charged under Section 278 of the Penal Code and the maximum sentence upon conviction is 14 years, whereas he was handed only 5 years. Counsel urged the court not to interfere.

I have considered the appeal and the State Counsel's submissions. The accused pleaded guilty to the charge of stealing stock Contrary to Section 278 of the Penal Code.

He did not waste the court's time by taking the court through the rigorous process of a hearing. The prosecution did not state whether he was a first offender or not. By then, the accused was 20 years old. He never told the court that he was in school then. I doubt that he is in school. Having taken into account the above facts and the fact that the appellant is a young man, I hereby allow the appeal and reduce the sentence to the period already served.

It is so ordered.

Dated, Signed and Delivered at **NYAHURURU** this **18th** day of **September**, 2019.

R.P.V. Wendoh

JUDGE

PRESENT:

Ms. Rugut for State

Soi – Court Assistant

Appellant - present