



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL APPEAL NO.14 OF 2018

(Appeal Originating from Nyahururu CM’s Court Cr.No.151 of 2018 by: Hon. O. Momanyi – S.R.M.)

JACKSON SOLOMON SAITOTI.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

J U D G M E N T

Jackson Solomon Saitoti, the appellant, was convicted on his own plea of guilty for the offence of stealing stock contrary to Section 278 of the Penal Code.

The particulars of the charge are that on 18/1/2018 at Manguo area within Nyahururu in Laikipa County, stole ten goats all valued at Kshs.60,000/= the property of Veronica Wambui Ndungu.

When the appellant was arraigned before Hon. Momanyi (SRM) on 5/2/2018, he pleaded guilty, facts were read to him to which he admitted. He was convicted and sentenced to serve 5 years imprisonment.

He filed an appeal challenging both conviction and sentence. However, at the hearing of the appeal, he abandoned the appeal on conviction. He therefore proceeded with the appeal on sentence alone.

The grounds of appeal are that the appellant is a young man aged 20 years; that he did not waste the court’s time when he came to court; that he was a first offender; that the court did not call for a pre-sentence report to help guide it in sentencing; that the sentence is too harsh.

He filed supplementary grounds of appeal which are that he has gone through rehabilitation programs at the prison, has been counseled, is remorseful and has acquired Grade III in carpentry and joinery, Grade III in masonry and can rely on the said skills to earn a decent living; that he was influenced by bad company but has now learnt. He prays that the court release him.

Ms. Rugut, learned counsel for the State opposed the appeal, counsel argued that having been convicted for the offence of stock theft, the maximum sentence provided in law is 14 years; that the trial court exercised its discretion and sentenced him to only 5 years and that he should be left in prison to learn all the other trades in order to be an asset to himself and others.

I have given due consideration to the grounds of appeal. Indeed the appellant pleaded guilty to the charge and did not waste the court’s time. The court noted that the appellant was not remorseful for the offence and decided to give him a deterrent sentence.

I have seen that the appellant is a young man. He claims to have learnt several kinds of trades that will enable him fend for himself and keep him out of mischief. I take into account the fact that the complainant recovered most of his lost property.

Having considered all the above, I am inclined to find that 5 years imprisonment was on the higher side and hereby set aside the said sentence. So far, the appellant has served one year and 8 months. I hereby sentence him to the period already served and he is hereby set at liberty unless otherwise lawfully held.

The appeal succeeds to that extent.

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

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R.P.V. Wendoh

JUDGE

PRESENT:

Ms. Rugut – State Counsel

Nyagah – Court assistant

Appellant - present