

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL APPEAL NO 26 OF 2018

ERICK KIRUNJA NJERU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 25/05/2018 in Nanyuki CM

Criminal Case No 358 of 2017 – E Ngigi, SRM)

J U D G M E N T

1. The Appellant herein, **ERICK KIRUNJA NJERU**, was convicted after trial of *stealing a motor cycle* contrary to **section 278A** of the **Penal Code**. On 25/05/2018 he was sentenced as follows:-

“...Accordingly, the Accused shall serve four years imprisonment. He has already been in custody for one year and one month, and which period is deducted from his sentence. Accordingly, the Accused to serve 3 years and 11 months.”

The Appellant has appealed only against the sentence, specifically, that apparent arithmetical error committed by the trial court in arriving at 3 years and 11 months.

2. If you deduct 1 year and one month from 4 years, you will remain with 2 years and 11 months, **NOT** 3 years and 11 months! This is an error on the face of the record which I am happy to correct.

3. The sentence of 3 years and 11 months imprisonment imposed upon the Appellant is hereby set aside, and a sentence of 2 years and 11 months substituted in its place. This shall be with effect from the date of sentencing, that is, 25/05/2018. To that limited extent only is the appeal against sentence allowed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 6TH DAY OF NOVEMBER 2019

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 7TH DAY OF NOVEMBER 2019