

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL APPEAL NO.202 OF 2017

(Appeal Originating from Nyahururu CM's Court Cr.No.,1863 of 2017 by: Hon. S.N. Mwangi – S.R.M.)

NAHASHON KURIA MWANGI APPELLANT

V E R S U S

REPUBLIC RESPONDENT

J U D G M E N T

Nahashon Kuria Mwangi, the appellant herein pleaded guilty and was convicted on his own plea for the offence of stealing stock contrary to section 278 of the Penal Code.

The particulars of the charge were that on 28/10/2017 at Kariko Village in Ol Jororok Sub-County in Nyandarua County, stole one sheep valued at Kshs.8,000/= the property of Charles Ngatia Thumbi.

The appellant was sentenced to serve four years imprisonment. He is aggrieved by the sentence and has filed an appeal. The grounds upon which he filed the appeal are that, having pleaded guilty to the charge, the sentence was harsh and excessive; that the sheep was recovered; that he is a diabetic and requires regular medication; that he has young children who depend on him.

The appellant pleaded guilty to the offence and hence did not waste the court's time. The court takes into account the fact that the appellant was said to be a first offender and that he had a family and is remorseful. He also claims to be a diabetic on regular medication but did not produce any evidence to that effect.

Taking all the above into consideration and the fact that the stolen sheep was recovered, the court should have considered a non custodial sentence first. The appellant was sentenced on 30/10/2017. So far, he has served 9 months imprisonment. I will therefore consider whether the appellant can benefit from non custodial sentence. For that reason, I quash the sentence of 4 years imprisonment and call for a pre-sentence report to be prepared by the Probation Officer for sentence on 25/7/2018 failing which the court will go ahead to sentence without the report.

Dated and Signed at NYAHURURU this 20th day of July, 2018.

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R.P.V. Wendoh

JUDGE

Present:

Ms. Rugut - State Counsel

Soi - Court Assistant

Present- appellant