



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL APPEAL NO. 131 OF 2010

JACOB MAIYANI LUKAYONI.....APPELLANT

versus

REPUBLICRESPONDENT

(arising from the judgment of Hon. H. N. Ndungu Senior Principal

Magistrate Nanyuki in Criminal Case No. 945 of 2010)

JUDGMENT

1. The Appellant JACOB MAIYANI LUKAYONI was charged with Stealing stock contrary to section 278 of the Penal Code the particulars of which were that on the 21st May 2010 at Chumvi Village in Laikipia District within Rift Valley Province jointly with another not before the court stole 2 sheep valued at Ksh. 3000/- the property of DAVID MASERE MARAMUSH.
2. He pleaded guilty to the said charge and was convicted and sentenced to seven (7) years imprisonment on his own plea of guilty.
3. Being aggrieved by the said sentence he filed an appeal and stated in his grounds as follows:
 - a. *He was aged 19 years illiterate and did not understand the court procedure.*
 - b. *The trial court did not warn him of the sentence he was going to face and was not given time to reflect on the charge after pleading to the same.*
4. When the appeal came for hearing before me Mr. Cheboi appeared for the state while the appellant was unrepresented.
5. Mr. Cheboi submitted that the maximum sentence available was 14 years imprisonment while the appellant was given seven years and therefore the same is not excessive and harsh. The appellant submitted that he had already served three years of the seven.
6. The appellant having pleaded guilty the appeal herein is only on sentence and in sentencing the appellant the trial magistrate considered the probation officers report which was not favourable to the appellant.
7. I note that a sentence of 7 years when a maximum provided for is 14 years is not excessive in the circumstances and would therefore decline to disturb the same.

8. I find no merit on the appeal herein and dismiss the same.

Dated, signed and delivered this 6th day of June 2014.

J. WAKIAGA

JUDGE

Court: Judgment read in open court in the presence of the Appellant and

Mr. Njue. The appellant has right of appeal.

J. WAKIAGA

JUDGE

6/6/2014