

Nyakundi v Republic

High Court, at Kisumu June 19, 1985 Hancox JA, Platt & Gachuhi JJA

Criminal Appeal No 3 of 1985 (Appeal from the High Court at Kisumu, Schofield J)

June 19, 1985, Hancox JA, Platt & Gachuhi JJA delivered the following Judgment.

The appellants Uhuru Nyakundi and Thomas Gweru were convicted on a charge of stealing stock contrary to section 287 of the Penal Code by the acting resident magistrate Kisii and sentenced to the statutory term of seven years imprisonment with hard labour and to receive 3 and 10 strokes of the cane respectively. They were to be placed under police supervision for five years after release. Their appeal to the High Court (Schofield J) was found that there was evidence that the appellants were found with two of the stolen cattle within hours of theft and dismissed their appeal.

The appellants have appealed to this court on a number of identical grounds. We have considered their grounds of appeal together with the senior state counsel submissions and have come to the conclusion that the appellants were correctly convicted as charged.

The evidence of their recent possession was very clear and there were concurrent findings of facts by both the lower courts. The learned judge on the first appeal correctly disregarded the admission of the second appellant on arrest. We therefore dismiss their appeal.