

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL APPEAL NO 193 OF 1982

STEPHEN MWENDA MWIRERIA APPELLANT

VERSUS

REPUBLIC RESPONDENT

JUDGMENT

The appellant was convicted of stealing contrary to Section 275 of the Penal Code (Cap 63) and sentence to eighteen months' imprisonment. Having considered the evidence on record I am satisfied that the appellant was properly identified as one of the thieves. His co-accused Salim Juma tried to bail him out of trouble by testifying that the appellant was not among those who stole crates of milk but this evidence was properly rejected. I would say that the appellant should consider himself lucky to have been charged with simple theft when the facts clearly disclosed a more serious offence of robbery. The sentence of eighteen months' imprisonment was appropriate. Hence this appeal is dismissed in its entirety. Orders accordingly.

Delivered at Nyeri this 8th December, 1982.

E O'KUBASU

JUDGE