

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

APPELLATE SIDE

CRIMINAL APPEAL NO.197 OF 1982

(From original convictions and sentences in Criminal Case No.1670 of 1982 of the Resident Magistrate's court at Eldoret – N.O. Ateya, Esq.)

REZRON THUO.....APPELLANT

Versus

REPUBLIC.....RESPONDENT

JUDGMENT

Both these appeals are consolidated. Appellant KIMANI and appellant THUO were charged jointly in the court below with the offence of stealing contrary to Section 275 of the Penal code (Cap 63) was alleged by the prosecution that they stole a chair valued at shs.50/= the property of one Paul Njenga. Kimani was charged alone in the second count which stated he created a disturbance contrary to section 95(1)(b) of the Penal Code. Both offences are said to have been committed at Langas Estate, Eldoret, on 12.3.1982. Kimani was acquitted on this second count.

Paul Njenga (P.W.1) owns a bar. One of his chairs in the bar was stolen and P.W.6 reported that both appellants had left a chair (Exh.1) which was similar to those owned by P.W.1 at his (P.W.6's) house on the night in question. Both appellants were arrested later and taken to Eldoret police station.

I have perused the recorded word and I am satisfied that the appellants were properly convicted on the first count. I agree with the learned trial Magistrate that evidence on the first count was overwhelming. The sentences are neither harsh or excessive. I would dismiss the appeals against convictions and sentences which are supported by learned counsel for the Republic.

Delivered at Eldoret this 20th day of September 1982

W. MBAYA

JUDGE.