



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYANDARUA**  
**CRIMINAL APPEAL NO. E037 OF 2025**

**JOSEPH KARANJA KIGO.....APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Criminal case No. E1386 of 2022 of the Senior Principal Magistrate's Court at Engineer by Hon. D.N. Sure– Senior Resident Magistrate)*

**JUDGMENT**

1. Joseph Karanja Kigo, the appellant herein, was convicted after pleading guilty to the offence of stealing stock contrary to section 278 of the Penal Code.
2. The particulars of the offence were that on the 18<sup>th</sup> day of October, 2022, at Ndunyu Njeru, in North Kinangop Sub-County of Nyandarua County, jointly with another person, stole one bullock valued at Kshs. 25,000/=, the property of Daniel Kabari Githaiga.
3. The appellant was sentenced to serve seven years' imprisonment. He has appealed against the sentence, contending that it was harsh.
4. The appellant was in person. He raised the following grounds of appeal:
  - a) The learned trial magistrate erred in imposing a harsh sentence.
  - b) The learned trial magistrate erred in law by failing to consider the appellant's mitigation.
5. The state opposed the appeal through M/s Odera Vena, learned counsel. She argued that the sentence was commensurate with the offence.
6. This is a first appellate court. As expected, I have analyzed and evaluated all the evidence adduced before the lower court afresh and have drawn my own conclusions, bearing in mind that I neither saw nor heard any of the witnesses. I will be guided by the celebrated case of **Okeno vs the Republic [1972] EA 32**
7. Section 278 of the Penal Code provides:

***If the thing stolen is any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, or the young thereof the offender is liable to imprisonment for a period not exceeding fourteen years.***

The appellant received a seven-year prison sentence and claimed it was too severe. It is well-established law that an appellate court may only overturn the trial court's sentence if specific conditions are satisfied, as explained in **Nilsson v Republic [1970] E.A. 599, 599,601, 601**, as follows:

***The principles upon which an appellate court will act in exercising its jurisdiction to review sentences are fairly established. The court does not alter a sentence on the mere ground that if the members of the court had been trying the appellant, they might have passed a somewhat different sentence and it will not ordinarily interfere with the discretion exercised by a trial Judge unless as was said in James v Rex (1950), 18 EACA 147, it is evident that the Judge has acted upon some wrong principle or overlooked some material factor! To this, we would also add a third criterion, namely, that the sentence is manifestly excessive in view of the circumstances of the case. R v Shershewcity (1912) C.CA 28 T.LR 364.***

8. The appellant was a first-time offender. His co-accused's sentence was reduced to 4 years' imprisonment in Naivasha High Court Criminal Revision E187 of 2022. It is only fair that the appellant's sentence be aligned with that of his co-accused. Therefore, I set aside the trial magistrate's sentence and replace it with a 4-year imprisonment term, to commence on 24 October 2022.

**Delivered and signed at Nyandarua, this 16<sup>th</sup> day of December 2025**

**KIARIE WAWERU KIARIE**

**JUDGE**