



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Criminal Appeal 152 of 2005**

**(From original conviction (s) and Sentence(s) in Criminal case No. 2112 of 2005 of the Chief Magistrate's Court at Kibera (Ms. Kasera – S.R.M.)**

**THADEUS JUMA GESWA.....**  
**.....APPELLANT**

**VERSUS**

**REPUBLIC.....**  
**.....RESPONDENT**

**J U D G M E N T**

**THADEUS JUMA GESWA** pleaded guilty to a charge of **STEALING BY SERVANT** contrary to **Section 281 of the Penal Code**. He was sentenced to 4 years imprisonment. He now appeals only against the sentence saying he was remorseful for what he did and that he will never repeat it signifying that he has reformed.

**Mrs. Obuo**, learned counsel for the State submitted that even though the sentence was legal, taking into account the maximum sentence for the offence was 7 years, that the fact that the Appellant was remorseful for the offence and that the stolen item was recovered, 4 years imprisonment was excessive.

I agree with learned State counsel's sentiments. There was no loss suffered by the Complainant at the end of the day. The Appellant was sorry for the offence and he demonstrated this by pleading guilty to the offence and in turn saving the court precious time. He was also a first offender. The 4 years imprisonment is harsh in the circumstances and I accordingly set it aside. In substitution I order the sentence that would result in the immediate release of the Appellant from prison for having served enough sentence. The release should be subject to withholding of the Appellant for any other lawful cause. Otherwise the appeal is allowed.

Dated at Nairobi this 26<sup>th</sup> day of July 2006.

.....

**LESIIT, J.**

**JUDGE**

Read, signed and delivered in the presence of;

Appellant

Mrs. Obuo for the State

CC: Hukla

.....

**LESIIT, J.**

**JUDGE**