



Case Number:	crim app 321 of 02
Date Delivered:	24 Oct 2003
Case Class:	Criminal
Court:	High Court at Kisumu
Case Action:	-
Judge:	Tanui B K
Citation:	PETER KIPRUGUT MARITIM vs REPUBLIC[2003] eKLR
Advocates:	-
Case Summary:	-
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**CRIMINAL APPEAL NO. 321 OF 2002**

**PETER KIPRUGUT MARITIM .....APPELLANT  
VERSUS**

**REPUBLIC .....RESPONDENT**

**(Appeal from Original SRM Nyando Criminal Case No. 583 of 2001)**

**JUDGMENT**

The appellant was charged, tried and convicted of the offence of stealing stock contrary to section 278 of the Penal Code. He has now appealed against his conviction and sentence as indicated by our Mr. Mutai from the state the Court convicted the appellant of the offence by the application of the doctrine of recent possession when the dates of the theft and when he was found with the animals were not before the Court. Secondly the appellant had given explanation of having been found in possession. There was no evidence that Andrea Arap Kirui who had allegedly employed the appellant to drive the animals was interviewed and called as a witness.

Bearing those factors in mind I am not satisfied that the prosecution proved its case beyond reasonable doubt. The appeal is therefore allowed and the conviction of the appellant is therefore quashed. The sentence is set aside and it is directed that he be released forthwith.

**Dated and delivered this 24th October, 2003.**

**B.K. Tanui  
JUDGE**



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