**Mwangi v Republic**

**Division:** High Court of Kenya at Nyeri

**Date of judgment:** 15 August 1973

**Case Number:** 3/1973 (41/74)

**Before:** Bennett J

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*[1] Criminal Practice and Procedure – Charge – Duplicity – Possession of firearm and ammunition*

*without certificate – Properly charged in single count – Firearms Act* (*Cap.* 114), *s.* 4 (*K.*)*.*

*[2] Evidence – Possession – Recently stolen property – Firearm stolen thirteen months before –*

*Possession not recent.*

**Editor’s Summary**

The appellant was found in possession of a revolver and eight rounds of ammunition which had been stolen thirteen months earlier, at a time when he was in prison.

He was convicted on a single charge of being in possession of the revolver and the ammunition without a firearms certificate and of receiving the revolver knowing it to have been stolen. The magistrate held that his possession of it was recent and had not been explained.

On appeal it was contended that the first charge was duplex, in that the firearm and the ammunition should have been charged separately and that the possession could not be recent.

**Held –**

(i) the firearm and the ammunition may be charged in one count;

( ii) possession of a firearm thirteen months after its theft could not be recent possession.

Appeal allowed in part.

**No cases referred to in judgment**