

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CORAM: A.K NDUNG’U J.

CRIMINAL APPEAL NO. 7 OF 2020

JOEL ABUKA ORIRI.....APPELLANT

VERSUS

REPUBLIC through ODPP.....RESPONDENT

(An appeal from the conviction and sentence of Hon. C.R.T Ateya, RM dated

and delivered on the 12th day of April 2019 in the original Ogembo PMCR No. 1339 of 2017)

JUDGEMENT

I have considered the application for reviewing of the sentence. I have noted the sentiments of the Probation Officer who did the pre-sentence report before sentencing. The report shows home environment was not fit for release of the applicant on a custodial sentence.

I have noted the applicant had an earlier charge of manslaughter and this offence has been committed after he left prison. His rehabilitation appears not to have been complete during the time he served a term for manslaughter.

In the circumstances, however, I note from the amount of narcotic 10 years imprisonment was on the higher side. It is harsh and excessive. I set aside the sentence of 10 years imprisonment and substitute thereof a term of imprisonment for 4 years to run from the date of sentence at lower court.

Dated and delivered at Kisii this 25th day of February 2020.

A.K NDUNG’U

JUDGE

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions.

Appellant in person