

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL 87 OF 2019

CLINTON ODERA AGENGA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Appeal arising from a Ruling vide Criminal Case No. 1077 of 2019 in the PM's Court at Bondo dated 18.12.2019 before Hon. E.N. Wasike, Senior Resident Magistrate)

RULING

1. Appeal summarily rejected on the ground that the Appellant pleaded guilty to the charge and he was convicted on his own Plea of guilty.
2. The facts were read out to him, which facts disclosed the offence charged and he admitted the same. Exhibit of Police Identification Parade Form was produced. The Complainant positively identified the appellant as the robber who was armed with dangerous weapons.
3. The accused was given an opportunity to mitigate but he said he did not wish to mitigate. The accused had been arrested in connection with another offence when the complainant was called upon to identify him. The Plea was unequivocal and there is no challenge thereto. The appellant saying he was told to admit the offence to get lenient sentence is not to challenge the Plea which is unequivocal.
4. Punishment for robbery with violence is death. The Appellant was given 30 years imprisonment which is very lenient and far off the mandatory sentence.
5. I find no error on the trial record to warrant interference with the conviction and lenient sentence imposed on the appellant.
6. The appeal is hereby incompetent as Section 348 of the Criminal Procedure Code bars an appeal against conviction where there was an unequivocal Plea of guilty and where, like in the instant case, the sentence was lawful. The section provides:

“No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by a subordinate court, except as to the extent or legality of the sentence.”

7. Orders to be served on the Appellant/Accused in prison.
8. This file is closed.

Dated, signed and Delivered at Siaya this 25th Day of September, 2020

R.E. ABURILI

JUDGE