



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**CRIMINAL APPEAL NO. 26 OF 2018**

**ISAAC OWIRO ONYANGO.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an appeal against conviction and sentence in Bondo PMCRC No. 33 of 2017 dated 30.4.2018 Before Hon. M. Obiero - PM)*

**RULING**

1. On application by the Appellant's Counsel, the appeal herein against Conviction is hereby marked as withdrawn.
2. On sentence, this Court does find that the same was lawful sentence.
3. The Appellant is however said to have developed Mental issues after the trial and has remained in prison displaying signs of a mental patient. He was treated at Siaya District Hospital and at Jaramogi Oginga Odinga Teaching and Referral Hospital Kisumu, where he was diagnosed to be schizophrenic.
4. On that account, and as he was sentenced to mandatory 20 years imprisonment on account of **Section 8(3) of the Sexual Offences Act**, I would exercise discretion and substitute the mandatory sentence with an Order that the Appellant shall serve five years imprisonment within which period he shall be committed to Mathari Hospital for psychiatric treatment.

**DATED AT SIAYA THIS 26<sup>TH</sup> DAY OF SEPTEMBER, 2019.**

**R.E. ABURILI**

**JUDGE**