



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO.52 OF 2017**

**LEVIS JOMO OMONYI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(From original conviction and sentence in Criminal Case No.3 of 2016 of the Principal Magistrate's Court at Ogembo. Before CRT Ateya-R.M)**

**JUDGMENT**

1 The appeal in this matter is against sentence. I have considered the submissions of both the appellant's counsel and the State's response. 3 years for assault in the circumstance of this case was excessive. I therefore allow the appellant's appeal on a sentence. The conviction is affirmed. Further the probation report is favorable. The appellant however did not serve about a year of his custodial sentence after conviction. The sentence of 3 years is set aside. He shall therefore serve community service for a period of 3 months. He is warned to respect his mother –in-law and to leave in peace with his extended family.

2 Right of appeal.

**Dated, signed and delivered at Kisii this 31<sup>st</sup> day of October 2019.**

**R.E. OUGO**

**JUDGE**

**In the Presence;**

**Appellant In person**

**Mr.Otieno Senior state counsel office of the DPP**

**Ms. Rael Court Clerk**