



**REPUBLIC OF KENYA**

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

**HC CR REV NO. 3 OF 2017**

**ANTHONY KIMELI CHANGWONY .....APPELLANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

*[Being an Appeal from original conviction and sentence in Eldama Ravine PMC.CR Case No. 1132 of 2014 made on 17/12/2014 by Hon. Kasera, SPM]*

**JUDGMENT**

1. The Appellant was convicted on his own plea of guilty and sentenced to imprisonment for 7 years and 2 years respectively for the offences of grievous harm contrary to section 234 of the Penal Code and assault causing actual bodily harm contrary to section 251 of the Penal Code.
2. The appellant appeals against the sentences and seeks a review of the sentence of 7 years for the offence grievous harm by a petition date stamped 29/8/2015. In accordance with S. 348 of the Criminal Procedure Code the respondent did not appeal the conviction.
3. The DPP opposed the appeal citing the severity of the injuries as shown in the medical examination P 3 form for the complainant in count 1, that the appellant suffered deep cuts on the head and neck with a total of 19 stitches on the head and was admitted in hospital for 3 days.
4. It was urged that the complainant had no reason to attack the complainants who were unarmed had peacefully gone to seek to secure a mobile phone, and thereafter the attack, the appellant had left the complainant unconscious.
5. I would agree with the DPP that a deterrent sentence is necessary for the offence in this case. I have also considered the serious injuries to the head inflicted by the appellant using a panga. Such an attack could easily have inflicted a fatal injury. It is also significant that the attack was unprovoked and the appellant's conduct in leaving the complainant unconscious after the attack showed no remorse for his act.
6. However, I consider that the sentence of imprisonment for (7) years is for a first offender, in the circumstances of the case, excessive. I would review the sentence to a prison term for (5) years.

**Order**

7. Accordingly, pursuant to section 354(3)(b) of the Criminal Procedure Code, the court reduces the sentence of imprisonment to a term of (5) years from the date of the sentence in the trial court on 17/12/2014.

**DATED AND DELIVERED THIS 23<sup>RD</sup> DAY OF NOVEMBER 2017.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances: -**

Appellant in person

Ms. Macharia, Ass. Director of Public Prosecutions.