

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

CRIMINAL APPEAL NO. 80 OF 2016

BETWEEN

ERICK OCHIENG OTIENOAPPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal against the original conviction and sentence of Hon. R.M. Oanda, Ag. PM dated 11th July 2013 in Ukwala Senior Resident Magistrates' Court Criminal Case No. 268 of 2013)

JUDGMENT

1. The appellant, **ERICK OCHIENG OTIENO**, was charged and convicted on his own plea of guilty to the offence of causing grievous harm contrary to **section 234** of the **Penal Code (Chapter 63 of the Laws of Kenya)**. The charge was that he unlawfully did grievous harm to Fredrick Onyango Ouma on 21st October 2012 at Madungu sub-location, East Uholo location in Ugunja District.
2. He was sentenced to 10 years imprisonment with an option of a Kshs. 50,000/= fine. He has been in prison for the 4 years. The trial Magistrate emphasized the issue of deterrence without regard to the overall circumstances of the Appellant. I find the sentence excessive.
3. I allow the Appeal and reduce the same to time served. The appellant is ordered released unless otherwise lawfully held.

DATED AND SIGNED AT SIAYA THIS 22ND DAY OF DECEMBER 2017.

D.S. MAJANJA

JUDGE

Appellant in person.

Ms Odumba, Prosecution Counsel, instructed by the Director of Public Prosecutions for the State.

Court Assistants: L. Odhiambo and L. Atika