

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

CRIMINAL APPEAL NO. 38 OF 2015

J A N ----- APPELLANT

VERSUS

REPUBLIC -----RESPONDENT

ORDER

1. This Appeal is against sentence only. J A N (The Appellant) was convicted on 2 counts of offence of causing Grievous harm. The Particulars being:-

Count 1: On the 19th day of August 2015 within Busia County, jointly unlawfully did grievous harm to E A N.

Count 2: On the 19th day of August 2015 within Busia County, jointly unlawfully did grievous harm to W A N.

2. The victims are minor children of the Appellant. They and another of the Appellant's child are currently in a Children Home pursuant to the following Order of the Trial Court.

“The 3 children to be remanded at End Times Children’s Home for the sake of their best interest”

3. The Sentence of 4 years on each count to run concurrently would ordinarily be an appropriate sentence given that the victims sustained serious injuries and the manner in which they were caused was cruel. However, this Court is concerned about the Best Interests of the 3 minor children. They are currently at a Children Home and living away from their mother. Before considering the matter any further, I direct that The Children Officer, Busia do visit the three children and report to the Court, inter alia, on the welfare of the Children, and their attitude towards their mother. The Children’s Officer should also interview the Appellant and find out, inter alia, whether she is in a frame of mind and position to take back the children. The Children’s Officer should also interview members of the extended family and Community. The Officer should make any observation that may enrich the Decision of this Court. Further, I direct the Probation Officer Busia County to prepare a Social Background Report of the Appellant and the victims.

Dated, signed and delivered at Busia this 25th day of February 2016.

F. TUIYOTT

J U D G E

In the presence of :-

Orwasa C/Assistant

.....for Appellant

Owiti -

for Respondent