

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL APPEAL NO.161 OF 2014

MOSES KUBAI APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From the original conviction and sentence in criminal case No. 955 of 2013 of the Chief Magistrate's Court at Maua by Hon. J.W Wang'ang'a – Resident Magistrate)

JUDGMENT

The appellant, **MOSES KUBAI**, was convicted of the offence of committing an indecent act with a child contrary to section 11(1) of the Sexual Offences Act No.3 of 2006.

The particulars of the offence were that on 8th April 2013 at [particulars withheld] village in Igembe North District of Meru County intentionally touched the vagina of **E.K** a child aged 6 years with his penis.

The appellant was found guilty of the offence and sentenced to serve ten years imprisonment. He now appeals against the sentence.

Section 11(1) of the Sexual Offences Act provides as follows:

Any person who commits an indecent act with a child is guilty of the offence of committing an indecent act with a child and is liable upon conviction to imprisonment for a term of not less than ten years.

The appellant was sentenced to the minimum sentence prescribed. Any lower sentence would be an illegal sentence. I will not therefore disturb the sentence meted out by the learned trial magistrate.

The appellant's appeal is therefore dismissed.

DATED at Meru this 19th day of December, 2016

KIARIE WAWERU KIARIE

JUDGE