

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

CRA CASE NO. 1 OF 2013

PAUL MUGAMBI NGOCI.....APPELLANT

-VERSUS-

REPUBLICRESPONDENT

JUDGMENT

1. The appellant **PAUL MUGAMBI NGOCI** was arraigned before Marimanti Principle magistrate's court with one count of Abduction with intention to confine contrary to section 259 of the Penal Code. He faced on alternative count of committing an indecent Act with a child contrary to section 11(1) of the sexual offences Act. After the trial he was convicted of the alternative charge and sentenced to 10 years imprisonment.
2. Being aggrieved by the conviction and sentence the appellant lodged this appeal. His petition raised the following grounds:
 1. **That owing to my being a first offender and in that I have rehabilitated and have long disbanded the wrong peer group. I meekly request for either lessening of the sentence.**
 2. **That your lordship grant me a non-custodial sentence since I am remorseful for that act which I own up and promise to henceforth lead a progressive life.**
 3. **That your lordship acquit me altogether on the prerogative of mercy or rather do as deems fit in your countenances.**
3. Which the appeal came up for hearing the appellant abandoned his appeal against conviction and said he wished to pursue his appeal against sentence only. He urged that he had children who have been left destitute because his wife abandoned them when he was jailed.
4. Mr. Mungai senior prosecution counsel urged the court to consider the circumstances of the offence and the length of sentence the appellant has served so far.
5. The appellant was convicted of committing an indecent Act with a child contrary to section 11 (1) of the Sexual Offences Act. A person convicted of that offence is liable to be imprisonment for a period not less than 10 years. The appellant was given the minimum sentence under the Act. That sentence can only be enhanced not reduced.
6. Consequently the appellants' appeal against sentence has no merit and is accordingly dismissed.

DATED AT MERU THIS 31ST JULY, 2014

LESIIT, J

JUDGE