



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
CRIMINAL APPEAL NO. 110 OF 2013

DAVID MURIMI NGARI APPELLANT

VERSUS

REPUBLICRESPONDENT

**(APPEAL ARISING FROM THE JUDGMENT OF THE PRINCIPAL MAGISTRATE'S COURT
AT GICHUGU BY T.M. MWANGI – CRIMINAL CASE NO. 510 OF 2011 ON 1ST MARCH,
2012)**

JUDGMENT

The appellant was convicted on the following two counts.

1. ***Possession of Cannabis Sativa contrary to Section 3 (1) as read with Section 2 (a) of the Narcotic Drugs and Psychotropic Substance Control Act of 1994.***
2. ***Assault causing actual bodily harm contrary to Section 251 of the Penal Code.***

He has appealed to this Court against the conviction and sentence but abandoned the appeal on conviction but argues me to re-consider the sentence. He was sentenced to a prison term of five (5) years on the 1st count and 6 months on the 2nd count both to run concurrently.

The appellant was a first offender and had five stones (rolls) of Cannabis Sativa. The injury inflicted on the complainant was harm. An option of a fine could have met the ends of justice. He was in custody all through his trial which commenced on 5th September 2011 and ended on 26th March 2012. He has therefore been in custody for two (2) years. That, in my view, is sufficient punishment for the offence. I accordingly allow the appeal on sentence and reduce it to the period already served. He is therefore to be released unless otherwise lawfully held.

B.N. OLAO

JUDGE

16TH OCTOBER, 2013

Judgment delivered in open Court this 16th day of October 2013.

Ms Kambanga State Counsel present

Appellant present

Mr. Muriithi Court clerk present.

B.N. OLAO

JUDGE

16TH OCTOBER, 2013