

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL APPEAL NO. 222 OF 2011

DOMINIC NDATHI NGURUNGUI.....APPELLANT

VERSUS

REPUBLIC.....PROSECUTOR

**FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL CASE NO.80 OF 2011 AT
THE PRINCIPLE MAGISTRATE'S COURT AT SIAKAGO BY HON. A.N. TUTA- DM II ON
6/12/2011**

JUDGMENT

DOMINIC NDATHI NGURUNGUI the applicant herein was charged with the offence of assault contrary to Section 251 of the Penal Code. He denied the charge and the matter proceeded to full hearing. He was eventually convicted on 6/12/2011. He was sentenced to three (3) years imprisonment. When the appeal came for hearing today on 16/10/2013 the applicant indicated he was satisfied with conviction and was due for release in December 2013.

I have considered the evidence on record and I do find that he was convicted on sound evidence. A social inquiry report had been called for and produced in the court below. It was found to be unfavourable. He was however a first offender but was not given an option of a fine.

I therefore allow his appeal on sentence and reduce the sentence to the period already served. To that extent only does the appeal succeed.

He will be released unless lawfully held under a separate warrant.

Delivered, signed and dated at Embu this 16th day of October 2013.

H. I. ONG'UDI

JUDGE

16/10/2013

In the presence of:

Ms Ingahizu - State

Appellant – present

Mutero/Kirong- CC