

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

CRIMINAL APPEAL CASE NO. 161 OF 2012

[Being an appeal from Original Sirisia criminal case No. 507 of 2012]

STEPHEN WANJALA WAMALWA..... APPELLANT

VERSUS

REPUBLIC..... RESPONDENT

JUDGMENT

The appellant was charged and convicted on his own plea of guilty of the offence of intentionally destroying police property contrary to section 103 (D) of the National Police Service Act No. 11A of 2011. He was sentenced to a fine of Kshs. 20,000/=, in default to serve two (2) years imprisonment.

He filed an appeal against conviction and sentence. However while prosecuting his appeal, he opted to proceed with appeal against sentence only. He told this court that for the period he has been in prison, he has learnt and changed in character. He asked to be pardoned to be able to reunite with his family.

The State, represented by Ms. Nyamweya counsel, did not oppose the request on reduction of the sentence. She submitted the appellant had served one year and has learnt his lesson. He may be discharged.

The Appellant was handcuffed while in police custody, destroyed the said handcuff. He was sentenced on 25th September 2012 and has therefore served a period of one year of the sentence. The handcuffs (exhibits) were ordered released back to the O.C.S, Chesikaki police station. From the record, the prosecution informed the court that the Appellant was a first offender.

I have considered the submissions of the Appellant and taken note of his remorse, the response by the State and the nature and circumstances of the offence committed. I have also noted the Appellant has already served half the period of the sentence meted out to him. The property in question was returned to the State. I am satisfied that his appeal on the limb of sentence has merit and allow it. I proceed to set aside the sentence given by the trial lower court and give a sentence reduced to the period already served by the Appellant. He is forthwith set at liberty unless lawfully held for unrelated offences.

JUDGMENT DATED and DELIVERED this 16th day of October 2013.

A. OMOLLO

JUDGE.