

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

APPELLATE SIDE

CRIMINAL APPEAL NO. 211 of 2010

(From Original Conviction and Sentence in Criminal Case No. 101 of 2010 of the Principal Magistrate's Court at Voi: Nyakundi L.M. – R.M.)

OSNEL MADOKA APPELLANT

=VERSUS=

REPUBLIC RESPONDENT

JUDGMENT

The Appellant **OSNEL MADOKA** has filed this appeal challenging his conviction and sentence by the learned Resident Magistrate sitting at Voi Law courts, on a charge of **BEING IN POSSESSION OF NARCOTIC DRUGS CONTRARY TO SECTION 3(1) as read with SECTION 3(2)(a) OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCE (CONTROL) ACT 1994**. Upon his arraignment in court and upon the charge being read out to him the accused pleaded guilty to the charge. The trial magistrate sentenced him to serve four (4) years imprisonment. The Appellant filed this present appeal.

I have perused the proceedings. I note that the Appellant's plea was properly taken. The facts of the charge were read out to the Appellant as required by law. The Appellant maintained his guilty plea saying:

“Accused: The facts are correct”

This was an unequivocal plea of guilty. Even in mitigation the Appellant confirmed his plea of guilty saying:

“MITIGATION

I have a lot of problems. I found my brother had been chased [from] school. My parents are old. I wanted to sell so that I can settle my debts”

In effect the Appellant admitted to having the rolls of bhang for sale.

Having perused the written submissions filed by the Appellant I note that the Appellant does not appear to challenge his conviction nor does he claim that his plea of guilty was not unequivocal. I find that the Appellant was properly convicted on his own plea of guilty. The sentence of four(4) years was in my view appropriate. I therefore dismiss this appeal in its entirety. I confirm the conviction and sentence of the lower court.

Dated and Delivered in Mombasa this 23rd day of March 2012.

M. ODERO

JUDGE