

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Appeal 182 of 2009

DOMINIC KIMUTAI KERTICH.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The Appellant was charged with the offence of creating a disturbance contrary to **Section 95(1) of the Penal Code**.

The Appellant was on his plea of guilty convicted and sentenced to 3 ½ years imprisonment. The punishment for the offence committed by the Appellant is imprisonment for only 6 months and not 4 years which is prescribed for under Section 95 (2) of the Penal Code for a different offence.

The sentence of 3½ years imposed upon the appellant was therefore illegal and the same is quashed and set aside.

As the Appellant has been in custody for over 6 months, some of which he served illegally, the Appellant is hereby set free, unless otherwise lawfully held.

There shall be orders accordingly.

Dated, delivered and signed at Nakuru this 25th day of February, 2010

M. J. ANYARA EMUKULE

JUDGE