



1. Criminal Appeal

2. **Offence** – Defilement of a girl of

- i. 16 year contrary to Section 8(1) (4) of the Sexual Offences Act.
- ii. Plea guilty
- iii. Sentence 20 years imprisonment

3. **Appeal**

- a) The time of the offence was committed the appellant was below the age of 18 years old and therefore a child under the children’s act.
- b) The offence should be that under Section 191(a) of the children act alternative sentence of probation.

4. **Court adjourns for formal age assessment.**

Report from Nakuru Provincial Hospital using radiology examination that confirms that appellant is aged 19 years (Prof W. M. Greulich and S.I. Pyle)

5. Appeal rejected.

6. **Case Law** - Nil

7. **Advocates**

P. Kiprop – State Counsel instructed by the Attorney General for the Respondent - present
M/S J.M. Motanya & Co. advocate for the Appellant - present

GEOFFREY KORIR APPELLANT

VERSUS

REPUBLIC RESPONDENT

JUDGMENT

I: Appeal

1. The appellant was charged with the offence of Defilement of a girl of sixteen years old contrary to

section 8(1) (4) of the Sexual Offence Act No. 3 of 2006.

2. The charges were read out to him and he pleaded guilty on his own plea. The trial magistrate sentenced the offender to serve a term of twenty years imprisonment.
3. On appeal to this High Court the appellant alleged his real age was fifteen years old and not 18 years as alleged before the subordinate court.
4. This court ordered that the offender be assessed as to his age at the District Hospital Kericho. The assessment given was fifteen years old as per the medical officer for health.
5. A second opinion was obtained from the Nakuru Provincial hospital with a request that they use the x-ray evidence. The report from that hospital showed that the said appellant was assessed as nineteen years old. The radiographic skeletal age as per the radiographic atlas of "*sketal developed of the hand and mist as per Professor W.M. Greulich and S.I. Pyle*" confirmed that the accused was aged nineteen years old and not fifteen years old. This report was by Dr. Ogato a radiologist medical doctor based in Nakuru.
6. From the foregoing this court would agree the appellant was never a minor at the time the offence was committed. He pleaded guilty to the charge.
7. The appeal is hereby dismissed.

DATED this 3rd day of August, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

P. Kiprop – State Counsel instructed by the Attorney General for the Respondent - present

M/S J.M. Motanya & Co. advocate for the Appellant - present