

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KISII
Criminal Appeal 163 of 2007

THOMAS OMOGA ABUGA APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From original conviction and sentence in the Senior Resident Magistrate's Court at

Ogembo in Criminal Case No.1042 of 2007

by J. D. Kwena, SRM)

JUDGMENT

The appellant was convicted on his own plea of guilty to a charge of assaulting his own son aged 12 years and causing him actual bodily harm. The appellant was sentenced to 48 months' imprisonment.

There facts of the case are that the appellant's child stole his Kshs.100/=. The appellant ordered the child to put a panga in a fire and when it got red hot, the appellant tied the boy's hands and ordered him to lie down. The appellant burnt the boy's legs, back and other body parts. Later, the appellant untied the young boy and ordered him to sleep.

Now the appellant pleads with this court to reduce the said sentence, saying it was very harsh.

The appellant should have considered that the punishment that he meted out against his child was itself very harsh, cruel and inhuman. The appellant should be kept away from his children for a while. I see no basis of interfering with the sentence that was passed by the trial court. I therefore dismiss this appeal.

DATED, SIGNED and DELIVERED at KISII this 30th day of July, 2008.

D. MUSINGA

JUDGE

Delivered in open court in the presence of:

Mr. Momanyi for the Appellant

Mr. Kemo, Senior Principal State Counsel for the Republic

D. MUSINGA

JUDGE