

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT ELDORET

Criminal Appeal 46 of 2006

BONIFACE SHINZORE LUVISIA.....APPELLANT

=VERSUS=

REPUBLIC.....RESPONDENT

RULING

The Respondent is not opposing the Appeal. I think that this is a sound decision. The Complainant stated that she was closing a window when she was hit with a stone on the nose. The stone came from the fence and she said it was thrown by accused. She did not state the exact time but said that it was in the evening. She went to sleep. The report was made one month later. The evidence was insufficient to convict the accused. Visibility was not proven and how the complainant saw the accused after she was injured. She had not seen him before the stone hit her.

It was unsafe to convict the appellant. I do hereby allow the appeal; set aside the sentence and quash the conviction. The Appellant shall be released forthwith unless otherwise lawfully held.

DATED AND DELIVERED AT ELDORET ON THIS 29TH DAY OF NOVEMBER 2007.

M.K. IBRAHIM,

JUDGE.