

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL APPEAL NO. 212 OF 2002

JACKLINE AGNES.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G E M E N T

The appellant was charged in CRC no. 393/01 before Senior Resident Magistrate's court Kajiado for the offence of neglecting a child contrary to section 23(1) (a) of the children and young persons Act.

When she appeared before the court for plea, she pleaded guilty to the offence and was convicted. A probation officer prepared a report and on 16.7.2001 she was placed on probation for a period of 3 years. She breached the probation order by failing to report to the probation officer as required. The Probation Officer applied for cancellation of the probation order and on 12.9.2002 the appellant was sentenced to serve the balance of the period she had been placed on probation which was 34 months. She has filed an appeal against sentence on grounds that she has realized her mistake and is remorseful.

The appeal was opposed because of appellants conduct after she was released on probation and absconded and that by this conduct she does not deserve the court is leniency.

So far the appellant has served about 11/2 years in prison. A balance of 16 months is left. The appellant had pleaded guilty and did not waste courts time. She must have learnt a lesson for this 11/2 years she has been in prison and the court finds that the term served is sufficient.

Accordingly I will allow the appellants appeal and set aside the sentence and replace with the term already served. The court hopes she will be able to go and look after that baby which she had abandoned. The appellant is therefore ordered set free forthwith unless otherwise lawfully held

. Dated, read and delivered at Machakos this.....day

of.....,2004.

R. WENDOH

JUDGE