

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL APPEAL NO.330 OF 2003

**(From original conviction and sentence of the SRM's court at Homa Bay in criminal case
No.1065 of 2003.)**

BENARD OWINO ONGOGO APPELLANT
VERSUS
REPUBLIC RESPONDENT

JUDGMENT:

Appellant was charged and convicted on his own plea of guilty for the offence of making a document without authority c/s 357(a) PC and that of uttering a false document c/s 353 Penal Code by SRM Homa Bay. He was sentenced to three years imprisonment in the first count and 18 months imprisonment in the 2nd count to run concurrently.

In his grounds of appeal he said that he did not understand the charge and that is why he pleaded guilty. He further said the charge was not explained to him. He said the certificate alleged to have altered was original.

Lastly he said the sentence of 3 years was harsh.

I have considered the appeal. The appellant pleaded guilty to both charges. Record shows that the charges were read and explained to appellant in Dholuo a language he understood. The facts must have been explained to him in the same language. He cannot therefore say he pleaded guilty because he did not understand the facts. I find his plea was unequivocal and the conviction was proper. The appeal against conviction is therefore dismissed.

As to sentence the appellant was a first offender and pleaded for leniency. He had tried to get employed though using an illegal way. I feel the sentence meted out was excessive in the circumstances.

I therefore set aside the sentence and substitute it with that of one (1) year imprisonment in each count to run concurrently. It is so ordered.

KABURU BAUNI

JUDGE

22/6/04

Delivered on 22nd June 2004. Mr. Kemo for State.

KABURU BAUNI

JUDGE