



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO.31 OF 2004

(From original conviction and sentence of the Senior Resident Magistrate's Court at Oyugis in Criminal Case No.451 of 2002 –N. N. NJAGI ESQ., SRM)

MICHAEL OCHIENG AROR APPELLANT

VERSUS

REPUBLICRESPONDENT

JUDGMENT

Appellant was charged of being in possession of Narcotic drugs c/s. 3(1) and (2) (a) of The Narcotics and Psychotropic Substances Act. He pleaded guilty and was convicted and sentenced to 4 1/2 years imprisonment.

Record shows that the charge was read to appellant. Interpretation was in English, Kiswahili and Luo. Accused understands that language well. Facts were too read to him and he accepted them. The plea was taken properly and there is no evidence that he was confused. He was therefore properly convicted. Appeal against conviction is therefore rejected.

As for sentence appellant was sent to jail for four and half years. He was found with only 50 grams of bhang which means he was not a trafficker. 4 1/2 years were excessive in the circumstances. I therefore set aside the sentence of 4 1/2 years and substitute it with one of 9(nine) months imprisonment.

It is so ordered.

KABURU BAUNI

JUDGE

24/6/04

Dated and delivered on 24/6/04. Mr. Kemo for State.

KABURU BAUNI

JUDGE