

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT CRIMINAL APPEAL NO. 231 OF 2002

(ORG PM'S KRG CR. C. 257/02)

CHARLES ABUOGA OUMA.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant was with others charged with the offence of Trafficking in Narcotic Drugs contrary to Section 4(a) of the Narcotic Drugs and Psychotropic Substances (Control) Act No.4 of 1994, in count one. The 2nd and 3rd count were that he was found in possession of the same near G.P.O. and at his house in Mikindani Mombasa. He was convicted on all three counts and sentenced to 15, 10 and 5 years imprisonment, respectively, the three to run concurrently.

During the prosecution of the appeal, the appellant abandoned his appeal on conviction and concentrated on his pleas for reduction of sentence. The appellant is a first offender. He has served about 5 years of his sentence. He submitted that he has rehabilitated since he went into prison. He cried for mercy and stated that his family has been suffering since he went into prison. He prayed earnestly for a chance to serve the country from outside prison without committing another offence. I have considered this case carefully. It is possible for a prisoner like the appellant to use all or any persuasive language to persuade the court to release him and when he is outside the prison he will go back to his evil and dangerous ways.

The appellant could just be doing that. But I am persuaded to go half-way to grant his request. The appellant will be investigated by the Mombasa Community Service Officer as to whether he is a fit person who can be released to serve the Mombasa community in providing services as the Community Services Officer may deem fit. If the prisoner has learnt any skills in prison or if he had any skills before going to prison, then the Community Services Officer will make a recommendation to this court and the court will consider whether or not the appellant may be committed.

ORDER

1. Mention of the case on 30.7.2002 for Community Services Officer's Report and Recommendations if any.
2. Community Services Officer to be summoned to present his report on 30.7.2002.

Dated and delivered at Mombasa this 25th day of July, 2002.

D.A. ONYANCHA

J U D G E