

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL APPEAL NO. 45 OF 2019

ONYANGO OWINO OWUORAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against conviction and sentence vide Ukwala PMCRC 59 of 2019 delivered on 17.6.2019 before Hon. G. Adhiambo P.M.)

RULING

1. This appeal was filed in 2019 by the appellant **Onyango Owino Owuor** who was convicted by Ukwala Senior Resident Magistrate for the offence of **Robbery with Violence Contrary to Sections 295 and 296(2) of the Penal Code**, and sentenced to serve ten years imprisonment. As at that time of filing of the appeal, 1st July, 2019, the appellant was at Siaya G.K. Prisons where he was assisted to file the appeal. The record of appeal was availed to this court on 24th February 2021, from Ukwala Law Courts. The appeal was admitted to hearing and the records of appeal were dispatched by the court on 25th February 2021, to Kisumu Maximum Prisons, Siaya G.K. Prisons and Kibos Maximum Prisons to trace the appellant and serve him with records of appeal to enable him file written submissions to canvass his appeal. The Office of Director of Public Prosecutions was served too.

2. The Registry has tried to locate the appellant in all the three G.K. Prisons to no avail. The appellant's surety in the Lower Court left his telephone contacts. The phone recorded in the surety form has been called but there is no response. The three G.K. Prisons are unable to trace the Appellant herein. In the premises, this court cannot keep this appeal open as the appellant is not available to prosecute his appeal.

3. Accordingly, the appeal herein filed on 1st July 2019, be and is hereby dismissed for want of prosecution by the appellant who should move the court appropriately, should he be available and be interested in its revival.

4. The file is now closed.

5. Orders accordingly.

Dated, Signed and Delivered at Siaya this 3rd day of March, 2021

R.E. ABURILI

JUDGE