



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL APPEAL NO. 40 OF 2018**

**JULIUS ODUOR APONDI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Appeal against conviction and sentence on 13/8/2018 in Ukwala SRM Cr [SO] case No. 20 of 2018 Hon G.A. Adhiambo, SRM)*

**RESENTENCING**

1. On 29th October 2019, this Court delivered judgment in this appeal, dismissing the appeal against conviction and calling for a Social Inquiry Report from the Probation Officer, Siaya, before considering resentencing the Appellant as the Mandatory Minimum sentences have since been declared unconstitutional. However, to date the Probation Officer, despite noting the case and intervening the appellant, has not filed any Social Inquiry Report.

2. The Appellant on several occasions urged this Court to wait for the Probation Report which the Court did consider but which appear not forthcoming.

3. I have considered the touchy mitigation by the Appellant who maintains his innocence and therefor he is not remorseful for what took place against a child aged 9 years. I have considered his plea that his health is not good as he has ulcers and that his children need his care and his business of carpentry has suffered.

4. However, the Offence Committed is serious and traumatizing to a very young child who looked up to the appellant for protection. The appellant abused the trust that young children have of adults. If he has his own children, then he does not expect or delight in them being abused.

5. That is why he claims his children have dropped out of school. The victim of the offence deserves justice too. No punishment should be seen to be a white wash. Punishment is intended to among others reform, rehabilitate and vindicate the affected victim.

6. In the premises, I hereby resentence the Appellant to serve seventy five (75) years in prison to be calculated from the date when he was first arrested.

7. Orders accordingly.

**Dated and Signed and Delivered at Siaya this 22<sup>nd</sup> day January, 2020.**

**R. E. ABURILI**

**JUDGE**

**In the presence of:**

The Appellant in person

Mr. Okachi Senior Principal Prosecution Counsel for the Respondent

CA: Brenda and Modestar