



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO. 45 OF 2019**

**CONSOLIDATED WITH CRIMINAL APPEAL NO. 83 OF 2019**

**DOUGLAS MOKUA.....1<sup>ST</sup> APPELLANT**

**KEVIN ONSERIO.....2<sup>ND</sup> APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Appeal from the original conviction and sentence in Criminal Case No.s 783 of 2019 and 784 of 2019 respectively, of the Kilgoris Principal Magistrate's Court)*

**RULING**

I have considered the pleas by the appellants on sentence. I have considered their ages and the fact that they have served more than half of the 4 years imprisonment imposed. I have had due regard to the probation reports filed in respect of each of the appellants.

In the circumstances of this case, I am satisfied that a proper basis is laid to disturb the sentence meted out by the trial court. I set aside the sentence of 4 years and substitute it thereof with sentences under community service for each of the accused to be served as follows;

1. The 1<sup>st</sup> appellant to serve community service for one (1) year at Mesabisabi Chief's Camp in respect of criminal case number 783 of 2017 and to serve a further six (6) months under community service at the same station in respect of criminal case number 784 of 2017.
2. The 2<sup>nd</sup> appellant to serve one (1) years community service at Gesare Primary School in respect of criminal case number 783 of 2017 and a further six (6) moths in respect of criminal case number 784 of 2017 in the same station.

**Dated and delivered at Kisii this 13<sup>th</sup> day of February 2020.**

**A.K NDUNG'U**

**JUDGE**

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions.

Appellants in person