



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MIGORI

[Coram: A. C. Mrima, J.]

CRIMINAL APPEAL NO. 19 OF 2019

ESBORNE OMONDI OTIENO *alias* KADWALO.....APPELLANT

-versus-

REPUBLIC.....RESPONDENT

(Being an appeal arising from the sentence by Hon. R. K. Langat Senior Resident Magistrate

in Rongo Senior Resident Magistrate's Court Criminal Case No. 420 of 2018

delivered on 28/12/2018)

JUDGMENT

1. This is an appeal against sentence.

2. **Esborne Omondi Otieno *alias* Kadwalo**, the Appellant herein, was charged with the offence of *grievous harm* contrary to **Section 234** of the Penal Code.

He denied the offence.

3. The Appellant was subsequently tried, found guilty and convicted as charged. He was accordingly sentenced to 12 years' imprisonment.

4. Being dissatisfied with the sentence, the Appellant preferred an appeal through **Messrs. Odondi Awino and Company Advocates** who filed a Petition of Appeal on 21/03/2019. The Petition of Appeal was filed about 3 months from the date of the sentence. From the record the Appellant did not seek any leave to file the appeal out of time.

5. From the foregone, the jurisdiction of this Court has not been properly invoked. There is no competent appeal before Court for consideration. The incompetent appeal is hereby struck out.

It is so ordered.

DELIVERED, DATED AND SIGNED AT MIGORI THIS 10TH DAY OF FEBRUARY 2020

A. C. MRIMA

JUDGE

Judgment delivered in open Court and in the presence of:

Mr. Awino Odondi, Counsel for the Appellant.

Mr. Kimanthi, Senior Principal Prosecution Counsel instructed by the Office of the Director of Public Prosecutions for the State.

