



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**CRIMINAL APPEAL NO. 95 OF 2017**

**(CORAM: R. E. ABURILI - J.)**

**FREDRICK ONYANGO OMONDI....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(Being an Appeal against conviction and sentence in a Judgment vide Principal Magistrate's Court, Siaya vide Criminal Case No. 747 of 2014 dated 21.9.2017 before Hon. T. M. Olando, Senior Resident Magistrate)**

**RULING ON RE-SENTENCE**

1. On 25/11/2019, the Appellant herein Fredrick Onyango Omondi withdrew his appeal against conviction and in his mitigation urged the court to reduce sentence of 20 years which was meted out on him by the trial court. He was convicted and sentenced for the offence of defilement of a child contrary to **Section 8(1) as read with 8(3) of the Sexual Offences Act**.
2. He pleaded not guilty and the case proceeded to full trial. The child victim was aged 15 years.
3. The Appellant is now aged 31 years old. He is a barber. He now readily admits committing the offence which carries a minimum prison term of 20 years. He is remorseful.
4. The Probation Officer was unable to trace the victim and her parents as they are said to have moved away from their previous residence.
5. The Appellant is said to be of good character but was found to have committed this offence against a child. Children must be protected from sex pests. Deterrent sentence is necessary even for first offenders as there is no reason why the appellant a married man with children should prey on a child to satiate his sexual appetite.
6. For the reason that mandatory minimum sentences are no longer mandatory following the *Jared Koita Injiri Koita Vs R [2019] eKLR* decision and the fact that the appellant now admits committing the offence, I exercise discretion and reduce the minimum 20 years imprisonment to 10 years imprisonment to be calculated from 5/10/2017.
7. Orders accordingly.

**Dated, signed and delivered at Siaya, this 3<sup>rd</sup> day of March, 2020.**

**R.E. ABURILI**

**JUDGE**

**In the presence of:**

Fredrick Onyango Omondi, Appellant (in person)

Mr. Okachi, SPPC for State

Court

Assistants:

Ishmael

Orwa

and

Modestar

Mutiemani