

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL NO. 32 OF 2019

BARRACK OMONDI AJOK.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against sentence conviction from the judgment in the Principal Magistrate's Court at Bondo in Criminal Case No. 426 of 2018 dated 16.5.2019 by Hon. E. N. WASIKE Senior Resident Magistrate.)

JUDGMENT VIA SKYPE

1. I have perused this appeal and the trial Court record. I observe that the matter was heard and determined by Hon. E.N. Wasike, Senior Resident Magistrate. The trial record does not show the language which the witnesses and the defence gave evidence in. This is contrary to **Section 197 and 198 of the Criminal Procedure Code as read with Article 50(2) (m) of the Constitution**. The trial of the Appellants was vitiated.
2. I therefore quash the conviction of the Appellant and set aside the sentence imposed and order that the Appellant shall be produced before Bondo Principal Magistrate's Court for retrial.
3. Orders accordingly.

Dated, Signed and Delivered at Siaya this 5th Day of May, 2020 via skype due to Covid 19 situation

R. E. ABURILI

JUDGE