REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL NO. 38 OF 2019

DANI OMONDI OKUKU …….. 1ST APPELLANT

STEPHEN OMONDI OKUKU …….. 2ND APPELLANT

ATHANASIO AJUMA OKUKU …… 3RD 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. 70 of 2019 dated 24.5.2019 by Hon. S.W. MATHENGE Resident Magistrate.)

JUDGMENT VIA SKYPE

1. I have perused the trial Court record. I observe that albeit witnesses were sworn, the language in which they testified is not shown, neither is the language which the Appellant understood was indicated.

2. This violates the clear provisions of **Section 197 and 198 of the Criminal Procedure Code as read with Article 50(2) (m) of the Constitution**.

3. That being the case, the trial of the Appellant was improper. I quash the Conviction of the Appellant and set aside the sentence imposed and order for retrial of the Appellant before the same Court in compliance with the stated provisions of the law.

4. Orders accordingly.

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

R. E. ABURILI

JUDGE