

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL NO. 40 OF 2019

JACKTON OWOUR OKATCH APPELLANT

VERSUS

REPUBLIC RESPONDENT

(Being an appeal against judgment, conviction and sentence from the judgment in the Principal Magistrate's Court at Bondo in Criminal[S.O.] Case No. 68 of 2018 dated 31.5.2019 by Hon. E. N. WASIKE, Senior Resident Magistrate.)

JUDGMENT VIA SKYPE

1. I have perused the trial Court record. I observe that the witnesses though sworn, the record does not show in which language they testified and/or which language was used by the witnesses and/or the Appellant.
2. This omission offends Sections 197 and 198 of the Criminal Procedure Code and Article 50(2) (m) of the Constitution which guarantee the accused person the right to be tried in a language that they understand and to be provided with free language interpretation.
3. I find the trial of the Appellant was vitiated by the omission to indicate which language the trial took place. I quash the appellant's conviction and set aside the sentence imposed on the Appellant.
4. I order that the Appellant **Jackton Owuor Okatch** shall be re-tried before Bondo Principal Magistrate's Court.
5. 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