



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**CRIMINAL APPEAL NO. 21 OF 2019**

**WILLIAM ODONGO OGAL.....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. 359 of 2017*

*dated 12.3.2019 by Hon. E. N. WASIKE Senior Resident Magistrate.)*

**JUDGMENT VIA SKYPE**

1. I have perused the trial Court record and I observe that the Court despite taking evidence of witnesses on Oath, the language in which the witnesses testified is not indicated. It is therefore not clear which of the three languages was used by which witness and/or the Appellant.
2. The omission offends the provisions of Section 197 and 198 of the Criminal Procedure Code as read with Article 50(2) (m) of the Constitution. I find the trial of the appellant was vitiated. I quash the conviction of the Appellant and vacate the sentence imposed and order for retrial of the appellant before Bondo Principal Magistrate's Court. Orders accordingly.

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

**R. E. ABURILI**

**JUDGE**