

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYAMIRA

CORAM: D.S MAJANJA J.

CRIMINAL APPEAL NO. 65 OF 2017

JARED ONYIEGO RASUGU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from the original conviction and sentence of Hon. A.C Towett – RM

dated 21st September 2017 at the Chief Magistrate’s Court

at Nyamira in Criminal Case No. 4 of 2016)

JUDGMENT

1. The appellant, JARED ONYIEGO RASUGU, was charged with the offence of attempted defilement contrary to section 9(1) of the Sexual Offences Act ('the Act'). The particulars of the offence were that on 7th January 2016 at [particulars withheld] Village, Borabu District within Nyamira County, he intentionally and unlawfully attempted to cause his penis to penetrate the anus of SO, a child aged 10 years.
2. In his petition of appeal aptly titled "*Mitigation of Appeal*", the appellant does not contest the sentence. He states that it is excessive and in his plea to the court he submits that he is remorseful and has reformed. He prays for a more lenient sentence.
3. Regretfully and as submitted by Mr. Otieno, the respondent’s counsel, the sentence of 10 years imprisonment is mandatory minimum sentence under section 9(2) of the Act and the court has no discretion to vary it. As my hands are tied by the law, I now dismiss this appeal.

Dated and delivered at Kisii this 5th day of April 2019.

D.S MAJANJA

JUDGE

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions.

Appellant in person.