

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIIYA

CRIMINAL REVISION NO. 40 OF 2019

EZEKIEL ONYANGO OGWANG.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against both the conviction and the sentence in Siaya PMCRC No. 895 of 2018 DATED 31.7.2019 before Hon J. O. Ongondo – P.M.)

RULING

1. The Convict/Applicant Ezekiel Onyango Ogwang was convicted of the offence of **grievous harm** on 10.7.2019. He was sentenced to serve five(5) years imprisonment. He has not appealed. He now seeks for sentence revision. The Probation Officer's Report dated 29.8.2019 recommends probation sentence subject to Court's discretion.
2. The Victim of the offence was interviewed and She is against any non-custodial sentence as she was not paid the compensation that she asked.
3. The Victim and the Convict are related. She sustained serious injuries during the assault. The Convict has not shown any remorse for brutally injuring the Complainant. Despite the positive Probation Report, I am not persuaded that non-custodial sentence will help the convict reform as he has not even offered to apologize to the Complainant or to compensate her in damages as suggested by the victim who may not be in a position to lodge a Civil Suit for recovery.
4. The victim was attacked for testifying in a case where the convict was allegedly defeated in Court. This is obstruction of Justice.
5. There was no provocation from the Victim. The sentence meted out was lawful and lenient considering the maximum is life imprisonment.
6. Accordingly, I decline to revise sentence of five (5) years imprisonment and dismiss the application for revision of sentence.
7. The convict to serve full prison sentence subject to remission at the discretion of Prisons authorities.
8. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIIYA THIS 19TH DAY OF SEPTEMBER, 2019.

R.E. ABURILI

JUDGE