

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CORAM: E. K. O. OGOLA, J.

CRIMINAL APPEAL NO. 33 OF 2018

MICHEAL MUSUNGU 1ST APPELLANT

ALEX NAVULU..... 2ND APPELLANT

JOSEPH INDAMBO 3RD APPELLANT

ALFRED JUMA..... 4TH APPELLANT

IA 5TH APPELLANT

VERSUS

REPUBLIC RESPONDENT

RULING

1. Judgment will be delivered on 25th October, 2019 in the cases of the 1st to 4th appellants.

2. As for the 5th appellant **IA**, he was a minor aged 16 at the time of the offence and was jailed at the pleasure of the President under Section 25 (2) of the Penal Code. That Section has since been declared unconstitutional, and courts have proceeded to sentence all minors sentenced under that Section. In view of the submissions by Mr. Ongige the Prosecutor herein that the time already spent by the 5th appellant be deemed adequate punishment, this court agrees and herewith sentences the 5th appellant to a period equivalent to the term already served, with the result that the 5th appellant **IA** is herewith forthwith released from Prison unless validly held.

Delivered, dated and signed in open court at Kakamega this 10th day of September, 2019.

E. K. O. OGOLA

JUDGE

In the presence of:

State Counsel – Mr. Ongige

Appellant -

Court Assistant – Mr. Erick