

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL NO. 65 OF 2019

DAVID OTIENO OKOTH APPELLANT

VERSUS

REPUBLIC RESPONDENT

(Being an Appeal against sentence in Bondo HCCR. Case No. 1053 of 2018 dated 16.8.2019 before Hon. E.N. Wasike - SRM).

JUDGMENT

1. As the Appellant has withdrawn his appeal and prays that the Court consider his sentence to run from the date he was arrested on 22.7.2016, I see no prejudice in granting the prayers as sought taking into account the fact that he was initially charged with the offence of Murder which was reduced to Manslaughter. The proviso to Section 333(2) of the Criminal Procedure Code allows the court to consider sentence to run from the time a convict was held in custody.

2. Accordingly, the appellant's sentence is hereby revised to 10 years imprisonment to be calculated from 22.7.2016 when the appellant was arrested and held in custody as the Appellant was not on bond during his trial for Murder and Manslaughter.

3. Orders accordingly.

Dated signed and delivered at Siaya This 5th Day of November, 2019.

R. E. ABURILI

JUDGE