

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

CRIMINAL APPEAL NO. 58 OF 2017

GEOFFREY OBIERO ONDARI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from the original conviction and sentence of Hon. E.K Nyutu – PM dated 22nd March 2017 at the Principal Magistrate’s Court at Nyamira in Criminal Case No. 87 of 2013)

JUDGMENT

The appellant, GEOFFREY OBIERO ONDARI alias JEFF was charged and convicted of the offence of gang defilement contrary to section 10 of the Sexual Offences Act.

I am constrained to allow the appeal for want of compliance with section 200 of the Criminal Procedure Code. Hon. J. Njoroge, CM heard the matter and in due course Hon. J. Were, SRM took over but did not comply with the provision.

Since there is overwhelming evidence against the appellant, I shall order a retrial.

Consequently, I allow the appeal, quash the conviction and sentence but order a retrial. I direct the appellant shall remain in custody and shall be taken to Nyamira Law Courts on 18th October 2018 for the hearing to start afresh.

Dated and delivered at Kisii this 12th day of October 2018.

D.S MAJANJA

JUDGE

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

Appellant in person.