

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

HC. CRIMINAL APPEAL NO. 76 OF 2016

(CORAM: R. E. ABURILI - J.)

KEVIN ODHIAMBO OCHOLA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against the sentence dated 28.03.2011 in

Criminal Case No. 136 of 2011 in UKWALA Law Court

before Hon. E.K. Mwaita - SRM)

RULING

On 28/3/2011, the Appellant herein was convicted of the offence of attempted murder contrary to **Section 220(a) of the Penal Code**. He was sentenced to serve 20years by Hon. E.K. Mwaita, SRM Ukwala on the Appellant's own plea of guilty.

The Appellant filed Kisumu HCRA No. 60/2011 which was summarily rejected on 8/7/2011 by Hon. Abida Ali Aroni J. He then waited until 2016 when he filed this appeal.

Albeit, he says that he was not informed of the outcome of his earlier appeal, he should have pursued the said appeal file and not to file a fresh appeal which then amounts to challenging the decision of Abida Ali J.

The Appellant had the opportunity of challenging the decision of Abida Ali Aroni J and not to file another appeal over the same subject matter.

In the premises, I find this appeal fatally incompetent and an abuse of court process. The same is hereby dismissed.

Dated, Signed and Delivered at SIAYA this 8th Day of October 2018.

R.E. ABURILI

JUDGE

In the presence of:

Mr. Okach: Prosecution Counsel for the State

Court Assistant: Winne, Modestar