



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL APPEAL NO. 187 OF 2013**

ALEXANDER HARRY NDINGIRIA..... APPELLANT

VERSUS

REPUBLIC .....RESPONDENT

*(From original Conviction and Sentence in Criminal Case No.350 of 2013 of the Principal Magistrate's Court at Taveta – Hon. Ondieki - PM)*

**JUDGMENT**

The Appellant herein was Convicted and Sentenced to three (3) years Imprisonment for the offence of grievous harm contrary to Section 234 of the Penal Code.

The particulars were that:-

***“On the 27th day of June, 2013 at about 9:45 a.m. at Mbogoni Village Taita Taveta County he unlawfully did grievous harm to JOHN MUTIE MULWA”.***

In Sentencing the Appellant the Court noted that he had acted like a beast against an elderly and frail man. A perusal of the P3 form shows the estimated age of the Complainant as seventy three (73) years. The Doctor noted that he had deep cut on the right and left parietal region of the head with profuse bleeding.

Tenderness on the left chest following a hit with a blunt object. Deep cut on the left elbow. Deep cut wound exposing the bone of the left elbow. Deep cut wound right palm left 4th finger involving the phalanx bone. The Doctor assessed the degree of injury as **“maim”**.

In the submissions before the Court Counsel for the appellant contended that the Accused was acting in self defence as he was also assaulted. There is no P3 form to the effect that he was assaulted.

The offence of grievous harm carries a maximum Sentence of life Imprisonment.

The appellant in this appeal was Sentenced to three (3) years Imprisonment. This Sentence cannot be said to be harsh and or excessive. The Conviction was safe. The Appellant is a grandson of the Complainants employer. The incident took place in broad day light.

There is no reason to interfere with both Conviction and Sentence. The appeal has no merit and its disallowed.

Judgment delivered dated and signed this **12th** day of **June, 2014**.

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***M. MUYA***

***JUDGE***

***12TH JUNE, 2014***

***In the presence of:-***

Counsel for the Appellant Owino

The Appellant

Court clerk