

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

HIGH COURT

CRIMINAL APPEAL NO. 8 'B' OF 2014

ALFONCE BARASA OKELLO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

This Court, just like the Appellant and the State Counsel, has noted that the Appellant was discharged in respect to Count 1 on 4th July 2006 by the Trial Court. It was therefore in error that the Learned Trial Magistrate convicted the Appellant in respect thereof and proceeded to impose a sentence of three (3) years imprisonment. For that reason I do hereby set aside both conviction and sentence.

As to Count 2, the Appellant has substantially served his prison term and there is all likelihood that he shall have completed sentence by the time this Appeal is heard and determined. For that reason I would, in my discretion, reduce the sentence in respect to Count 2 to the period already served. The result is that the Appellant shall be released forthwith unless detained for some other lawful cause.

In respect to Count 2 the prison term would be ending sometime this month, if one was to take into account remission.

F. TUIYOTT

JUDGE

DATED, DELIVERED AND SIGNED AT BUSIA THIS 4TH DAY OF DECEMBER, 2014.

IN THE PRESENCE OF;

KADENYI.....COURT CLERK

OWITI.....FOR STATE

APPLICANT IN PERSON