

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
APPELLATE SIDE
CRIMINAL APPEAL NO. 488 OF 1998

**(From Original Conviction/Sentence and in Criminal Case No. 2701
of 1998 of the Resident Magistrate's Court at Kibera: G. Nzioka (Mrs))**

GEORGE DEMUS OOKO ODENYO.....APPELLANT
Versus
REPUBLIC.....RESPONDENT

**Coram: Osiemo J. Appellant - Present Respondent - Mrs. Oduor State Counsel P.O. - Mrs. Kivindu
Mr. Onduma - Court Clerk**

JUDGEMENT

The appellant was convicted with an offence under Section 313 of the Penal Code. He was sentenced to 24 months imprisonment. He appeals against sentence only. The appellant was a first offender. The amount he obtained through false pretence was recovered. He is sickly and aged about 58 years old.

In the circumstances a non custodial sentence was most suited. The learned state counsel concedes to the appeal.

For the above reasons this appeal is allowed. The sentence of 24 months is set aside and substituted with a 2 years probation period.

Delivered and dated at Nairobi this 6th day of May, 1998

J.L.A. OSIEMO

JUDGE