

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT KISUMU
(CORAM: GICHERU, KWACH & TUNOI)
CRIMINAL APPEAL NO. 108 OF 1992

BETWEEN

HERMAN AMBONYA ODONGO.....APPELLANT
AND
REPUBLIC.....RESPONDENT

(Appeal from an order of the High Court of Kenya at
Kakamega (Justice Osiemo) dated 14th October, 1992

in
CRIMINAL APPEAL NO. 359 OF 1991)

JUDGMENT OF THE COURT

The appellant was convicted of robbery contrary to section 296(1) of the Penal Code and sentenced to 6 years imprisonment and 5 strokes of the cane, followed by police supervision for 5 years. His appeal to the superior court against both conviction and sentence was summarily rejected under section 352(2) of the Criminal Procedure Code. He has now appealed to this court against this rejection.

The only issue of law which could have arisen in any appeal would have been the issue of identification on which there is more than ample evidence to prove that the appellant was one of the assailants who attacked the complainant's wife and stole his radio. Although the radio was never recovered, the appellant and the second robber were traced through their foot marks to the house where they were apprehended.

In the end we are satisfied that the evidence in this case is sufficient to support the conviction and there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead this court to the opinion that the sentence ought to be reduced. The summary rejection was in the ultimate analysis correct and we accordingly dismiss this appeal.

Dated and delivered at Kisumu this 13th day of June,
1994.

J. E. GICHERU

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JUDGE OF APPEAL

R. O. KWACH

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JUDGE OF APPEAL

P. K. TUNOI

.....

JUDGE OF APPEAL

I certify that this is
a true copy of the original.

DEPUTY REGISTRAR.