

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

CRIMINAL APPEAL NO 318 OF 1987

WILSONPLAINTIFF

VERSUS

REPUBLIC.....DEFENDANT

JUDGMENT

The 1st appellants appeals against both conviction and sentence. He had been convicted of affray and sentenced to 12 months imprisonment. His complain in this appeal is that his plea was not unequivocal. This complaint is not born out by the record. He pleaded guilty to the charge by admitting that he fought. The place of fighting was a public place and I am satisfied that the offence disclosed was admitted unequivocally. I will uphold the conviction. Sentence was excessive and it is set aside. The appellant has been in prison for 8 days and in all the circumstances of this case the said days of imprisonment amply satisfy the interests of justice. Consequently the 1st appellant is given such sentence as will secure his immediate release from prison.

The second appellant who was charged with and convicted of the same offence was also sentenced to 12 months imprisonment. His appeal is against sentence only. For the reasons stated above in relation to the 1st appellant this appellant is also given such sentence as will serve his immediate release from prison. That is to say the sentence of the lower court is set aside.

October 23, 1987

TORGBOR

JUDGE