

REPUBLIC OF KENYA

Ocheno v Republic

High Court, at Nairobi (Appellate Side) June 25, 1985

O'Kubasu J

Nyeri Court Martial Criminal Case No 38 of 1984

(Original Sentence in the Court Martial held at Langata Barracks)

Advocates

Appellant in person, unrepresented

Lt Col T K Githiora (State Counsel) for respondent

June 25, 1985, O'Kubasu J delivered the following Judgment.

The appellant was convicted on his own plea of guilty, of mutiny, contrary to section 25(2) of the Armed Forces Act (cap 199 Laws of Kenya). He was sentenced to six (6) years imprisonment and dismissed from the Armed Forces. He now appeals against this sentence of six (6) years imprisonment.

The appellant used to be a gunner at Embakasi. He woke up on August 1, 1982 at around 7.00 am and dressed in uniform ready for parade. He saw armed soldiers guarding the fence. He went to the main gate and while advancing to the armoury he saw that the armoury had been guarded. He decided to go to Eastleigh Base for more information. He was given a lift by a service Land Rover. At Eastleigh the appellant went straight to the armoury where he found other servicemen queuing for arms. The appellant was given an SLR and 20 rounds of ammunition. Outside the armoury the appellant saw a Land Rover which was heading towards Sick Quarters. He went to ask for a lift to be taken to Embakasi. While there he saw a wounded soldier who was saying that he had been shot in town and that the GSU and Army were firing at everybody in town. After lunch the appellant saw the 50 ACB attack the base. He hid in the bush until it was dark. At night the appellant went through the bush up to Soweto village. All this time the appellant was carrying his gun.

The appellant complained that his sentence was not reduced by the Review Board. He is 28 years and unmarried. He has now developed eye problems and so he does not see properly.

Having considered what the appellant has stated in mitigation I reduce his sentence from six (6) years imprisonment to four (4) years. Order accordingly.