



**Ogana v Republic**

**High Court, at Nairobi (Appellate Side) July 3, 1985**

**O’Kubasu J**

**Nyeri Court Martial Appeal No 130 of 1984**

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

**Advocates**

**Appellant in person, unrepresented**

**Lt. Col T K Githiora (State Counsel) for Respondent**

**July 3, 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 ten (10) years imprisonment and dismissed from the Armed Forces. This sentence of imprisonment was later reviewed and reduced to four(4) years. The appellant now appeals against this reduced sentence.

At the material time the appellant was working in the field of Air Moves at the Easteligh Air Base. On August 1, 1982, the appellant was in his billet when he was told at about 5.30 am to go to the armoury where he was issued with an SLR plus 20 rounds of ammunition. He then got into a Land Rover which was loaded with looted goods. The appellant was taken to Easteligh Air Base where the loot was unloaded. He then went to the Airmen’s Mess, where he found Spte. Ochuka addressing some airmen. Ochuka ordered the servicemen to go back to town and patrol the streets. The appellant joined other servicemen under a white flag which they had hoisted and surrendered to the loyal forces. The appellant was co-operative during investigations.

The appellant stated that his participation was minimal as he never used his gun. He was new in the service. His father died last year.

The facts clearly show that the appellant was not involved in looting or shooting in the air. He surrendered under a white flag. I therefore reduce his sentence to three years imprisonment. Order accordingly.