

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT KISUMU

(Coram: Kneller, J.A. Chesoni and Platt, Ag. JJ.A)

CRIMINAL APPEAL NO 91 OF 1983

BETWEEN

JOHN ONYANGO ODUORAPPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a sentence of the High Court of Kenya at Kisumu (Schofield, J.) dated March 19 1983

in

Criminal Case 776 of 1983)

JUDGMENT OF THE COURT

The appellant, who at first did not wish to appear before us but who has appeared has raised no point of law on this second appeal. He was convicted of causing grievous harm contrary to section 234 of the Penal Code and sentenced to four years' imprisonment, twelve strokes of corporal punishment and five years of police supervision.

The appeal concerns facts, very carefully analyzed by the High Court in the light of the findings by the trial court. These were evidence which was properly evaluated by the High Court, upon which the courts below could come to the conclusion, that the Appellant was guilty of the offence charged. The Appellant was held to be recognised by witnesses who knew him. The evidence of the brothers was not necessary. It would have carried the Appellant's identification no further by the production of the sword which the Appellant complains was not produced. The Appellant was arrested sometime after the event because he had left home. All those matters were matters of fact.

Consequently the appeal is dismissed against conviction. There is no appeal to this court on sentence.

Delivered at Kisumu this 5th day of December, 1983.

A.A. KNELLER

JUDGE OF APPEAL

Z R CHESONI

AG JUDGE OF APPEAL

H G PLATT

AG JUDGE OF APPEAL