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ORIGINAL

REPUBLIC OF KENYA

In the HIGH Court
at KISUMU

CIVIL

CASE No. GA 49 OF 20 16

CRIMINAL

To OTIENO TOAD & CO. ADV

	Shs.	cts.
Exhibits		
Affidavit <u>ALO</u>	<u>75/2</u>	<u>00</u>
Witness Summonses		
Decree		
Copying Fees		
.....		
Other Charges		
Application <u>SE JURY</u>		
Orders <u>ALW</u>		
Service <u>ADJ</u>		
TOTAL	Shs. <u>75/2</u>	<u>00</u>

Received Payment
Cashier

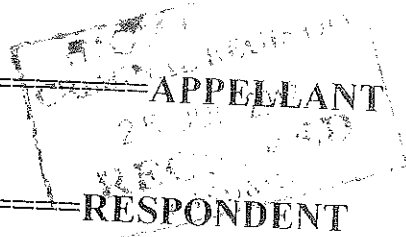
[Signature]

25/07, 20 16
Court Clerk

Hg 27/9/17

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISUMU
CRIMINAL APPEAL NO. 49 OF 2016

CHARLES ODHIAMBO OCHIENG=====APPELLANT
=VERSUS=
THE REPUBLIC=====RESPONDENT



(Being an appeal from the decision of the SRM, Winam, Honourable B.K. Kasavuli dated 11th day of October 2016, Criminal case No. 1275 of 2012)

AMENDED PETITION OF APPEAL

The Appellant herein CHARLES ODHIAMBO OCHIENG being dissatisfied with the entire judgment on conviction and sentencing by the Honourable B.K KASAVULI SRM on the 11th November, 2016 in which the Appellant was convicted to 4years imprisonment for the offence of manslaughter contrary to Section 202 as read with S.205 of the Penal Code, hereby appeals against the conviction and sentence on the following grounds.

GROUND OF APPEAL

1. **THAT** the learned trial Magistrate erred law and facts by relying on the evidence from an alleged report by the Medical Practitioners and Dentist Board that was neither tendered in court nor corroborated.
2. **THAT** the learned trial Magistrate erred in law and facts in making reliance on an "extraneous evidence" and going on a "frolic of his own" to find an evidence not adduced in court, thereby denying the Appellant the opportunity to defend the allegations on the said report by the Medical Practitioners and Dentist Board.
3. **THAT** the learned trial Magistrate erred in law and facts in making reliance on contradictory evidence by the prosecution witnesses as to the real cause of the bleeding that led to the death of the deceased
4. **THAT** the learned trial Magistrate erred in law and facts in convicting the Appellant on uncorroborated evidence by the prosecution witness.

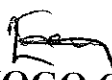
5. **THAT** the learned trial Magistrate erred in law and facts in convicting the Appellant when the prosecution did not prove its case beyond any reasonable doubt
6. **THAT** the learned trial Magistrate erred in law and facts in disregarding the watertight evidence of the defence and proceeding to convict the Appellant.

REASONS WHEREFORE it is proposed:

1. That this Honourable court do quash the conviction and set aside the sentence of the trial court and the Appellant be set free forthwith

DATED at ^{Kisumu} **KISHI** this 11TH day of October....2016.

AMENDED at ^{Kisumu} **KISHI** this 2nd day of ^{July}2017.


OTIENO, YOGO, OJURO & COMPANY
ADVOCATES FOR THE APPELLANT

DRAWN AND FILED BY:-

OTIENO, YOGO, OJURO & CO. ADVOCATES
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OMOLO AGAR ROAD
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TO BE SERVED UPON
THE DIRECTOR OF
PUBLIC PROSECUTION
KISUMU