



REPUBLIC OF KENYA



**Shikuku v Republic (Criminal Appeal E054 of 2022)  
[2023] KEHC 3489 (KLR) (28 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3489 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL APPEAL E054 OF 2022  
WM MUSYOKA, J  
APRIL 28, 2023**

**BETWEEN**

**DAVID SHIKUKU ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Appeal from judgment of Hon. D. Alego, Senior Principal Magistrate  
(SPM), in Kakamega CMCCRC No. 59 of 2018, of 12th July 2022)*

**RULING**

1. In the course of preparing judgment in this matter, it transpired that the record of appeal is incomplete.
2. The record of appeal reflects that Hon. TM Mwangi, Senior Principal Magistrate (SPM), heard PW1 and PW2 on September 27, 2018.
3. On July 23, 2019, Hon. Alego, SPM, took over the matter, and directed that it would proceed from where Hon. Mwangi, SPM, left off. After that the record is silent on what transpired.
4. The judgment, that Hon. Alego, SPM, delivered, on July 12, 2022, indicates that Hon. Alego, SPM, after taking over from Hon. Mwangi, SPM, took evidence from PW3 and DW1, on unknown dates. That record is what is missing from the record of appeal.
5. I am unable to prepare judgment in this matter in the circumstances.
6. Let the Deputy Registrar cause the record of appeal to be completed, before the matter is placed before the Judge for judgement-writing.
7. The matter shall be mentioned thereafter. The judgment may be written or prepared by any of the Judges at the High Court at Kakamega.



**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 28<sup>TH</sup> DAY OF  
APRIL 2023**

**W MUSYOKA**

**JUDGE**

**Mr. Erick Zalo, Court Assistant.**

**Appearances**

Mr. Khayumbi, instructed by JI Khayumbi & Company, Advocates for the appellant.

Ms. Kagai, instructed by the Director of Public Prosecutions, for the respondent.

