

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL APPEAL NOS. 60 & 61 OF 2014

[From the original conviction and sentence in Criminal Case No. 1433 of 2012 dated 2/10/2014 in the Chief Magistrate's court at Embu, R. v. 1. John Njagi Kiragu 2. Robert Kariuki Njagi]

ROBERT KARIUKI NJAGI.....1ST APPELLANT

JOHN NJAGI KIRAGU2ND APPELLANT

VERSUS

REPUBLICRESPONDENT

RULING

1. This ruling is in response to the following consolidated applications.

1. The interested party's recusal/disqualification of the court (Bwonwonga, J) dated 24/7/2017.

2. The interested party's application for review of the court's ruling in respect of the reconstructed file dated 21/7/2017.

2. The two applications are opposed. They raise one common issue of law namely whether the applicant is entitled to be enjoined in the two appeals, which are pending for judgement before me.

3. The said common legal issue raised was comprehensively dealt with in my ruling of 06/04/2017. The said ruling dismissed the complainant's application to be enjoined as an interested party in the instant two appeals. He was, however, granted permission to participate in the two appeals in the capacity of watching brief and to communicate to the court through the prosecutor.

4. I therefore find that the two applications are an abuse of the court process.

5. The upshot of the foregoing is that these two applications dated 24/7/2017 and 21/7/2017 are incompetent and an abuse of the court process. The two applications are hereby dismissed in their entirety.

Ruling delivered in open court this 17th day of January 2018 in the presence of Ms Nkurrinah holding brief for Mr. Anyoka, Ms Were for both appellants and Mr. Mukofu for state.

J. M. Bwonwonga

Judge

17/1/2018