

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL APPEAL NO. 155 OF 2012

(An appeal against both conviction and sentence of the Chief Magistrate's court at Kakamega in Criminal Case No. 748 of 2012 delivered on 26th June, 2012 [S. M. SHITUBI, CM])

VINCENT SHAMALLA MOI APPLICANT

VERSUS

REPUBLIC RESPONDENT

RULING

This appeal came up for hearing on 15/10/2013. However, the learned Prosecuting Counsel Ms Opiyo informed the court that the appellant had been released from prison on Presidential Amnesty on 12th December, 2012 and thus he was not present in court.

Section 360 of the Criminal Procedure Code does not recognize the release of a prisoner as abatement of the appeal. Appeals to the High Court except for sentence of a fine abate only on the death of the appellant.

From the record, it is not clear whether any effort was made by the Deputy Registrar to serve the appellant with a hearing notice for the appeal. From the charge sheet he comes from Shinyalu, Muranda Location.

I therefore order that the Deputy Registrar fixes a fresh hearing date for the appeal, and issue a hearing notice to the appellant.

Those are the orders of the court.

Dated and delivered at Kakamega this 21st day of November, 2013

George Dulu

J U D G E