



REPUBLIC OF KENYA

IN THE HIGH COURT

AT BUNGOMA

CRA NO.93 OF 2003

***(Appeal from conviction and sentence of Senior Principal Magistrate
Hon. K. Ngomo in Bungoma court in Cr. Case no.831 of 2000)***

PATRICK ODEMBO OBAYI.....APPELLANT

VS

REPUBLIC.....RESPONDENT

JUDGMENT

The Appellant was, along with others, convicted of robbery with violence contrary to section 296 (2) of the Penal Code by the Senior Principal Magistrate at Bungoma and was sentenced to suffer death. He filed this appeal on 1/4/2003 challenging the conviction and sentence. Since then the appeal has not been heard because the original lower court file went missing. The Deputy Registrar has written to say that all efforts to trace the same have not borne fruit. This is a serious indictment on the way we manage our records in the Judiciary.

The Appellant's right to expeditious disposal of his appeal has been compromised and his continued detention has become unconstitutional and illegal. It is for this reason that we order the appeal to be terminated and the Appellant released forthwith from prison unless he is otherwise being lawfully held.

Dated and delivered at Bungoma this 27th day of March, 2012.

.....

A. O. MUCHELULE

JUDGE

.....

F. N. MUCHEMI

JUDGE