REPUBLIC OF KENYA

High Court at Machakos

Criminal Miscellaneous Application 121 of 2012

REPUBLIC ……..…..……..……..… APPLICANT

VERSUS

MARTIN MWOLOLO ITHIA …….....……. RESPONDENT

R U L I N G

Before me is an application dated 24th August 2012 filed by the State seeking leave to appeal out of time. It is a criminal matter. The State has said that the DPP was not able to file an appeal out of time because they were not made aware of the orders made.

Though the application is opposed, I will allow the same in the interests of justice. It is a primary consideration in criminal proceedings that both the State and the defence are given leeway to ventilate their positions in court, for substantive justice, as envisaged in the **Constitution (2010)** to be done.

Consequently, I find merits and allow the application and grant the State (DPP) leave to appeal out of time. The appeal by the State will be filed within the next fourteen (14) days.

Dated and delivered at Machakos this **13th** day of **December** 2012.

……
George Dulu
Judge

In the presence of:
N/A for State
Mr Mwangangi for Respondent
Mutinda – Court clerk