



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Criminal Appeal 315 of 2008

MOHAMED IMAM APPELLANT
VERSUS
REPUBLIC RESPONDENT

RULING

By a Notice of Motion filed before this court on 7th October 2009 the Appellant seeks the leave of the court to adduce as additional evidence during his appeal a letter dated 11th July 2009 from the Office of the Vice President and Ministry of Home Affairs addressed to the officer in charge Shimo la Tewa Prison. The State has opposed this application for further evidence to be adduced at the appeal.

I have perused the letter in question. It appears that the Appellant now wishes to claim that his names are not **Mohamed Imam alias Haji Hapendeki** as appears in the charge sheet. He now claims that his names are **MOHAMED ALI SALIM**. I note that this matter was raised by the accused in his defence before the lower court and was substantially addressed by the learned trial magistrate in her judgement. As such no purpose is served by re-opening the matter upon appeal. I find no pressing reason to warrant the new evidence to be adduced in appeal as the letter does not amount to new evidence. It was available to and was dealt with by the trial court. As such I find the present application has no merit and I dismiss the same in its entirety.

Dated and Delivered at Mombasa this 12th day of February 2010.

M. ODERO
JUDGE

Read in open court in the presence of:

Appellant in person

Mr. Onserio for State

M. ODERO
JUDGE
12/2/2010