

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Criminal Appeal 210 of 2007

CHARLES NYAGA APPELLANT

VERSUS

REPUBLIC RESPONDENT

RULING

The appellant in this case was convicted on his own plea of guilt to a charge of grievous harm contrary to section 234 of the Penal Code. He was released on bail pending appeal on 12th March 2008. Thereafter, the appeal was fixed for hearing on 14th October 2009. The appellant did not attend court. The appeal was on that date adjourned to 10th December 2009 for mention because it was not clear to the court how the date had been obtained. Learned counsel for the appellant Mr. Mwanzia was present before court. The matter was listed on 10th December 2009 and because the appellant again did not attend court, the court ordered for a warrant of arrest to issue against him. The appellant was arrested on 27th April 2010 and on that day, his bond was canceled. The appellant has made an application seeking to have his bail reinstated on the same terms. The reason the reinstatement is sought is because the appellant is unwell which according to his counsel made him not contact his counsel's offices and further that his counsel had moved from the firm of advocates Kiautha Arithi thereby confusing the appellant. I have considered the application and I accept the submissions made by the learned counsel for the state that the appellant can receive treatment whilst still in custody. Indeed it is not a basis of granting bail that the applicant is ill perse. See the case **Dominic Karanja Vs. Republic** [1986] KLR 612. What is clear to this court is that the appellant failed to keep to his bail terms and for that reason, bail pending appeal will not be reinstated. I have noted that this appeal was filed in the year 2007 and I will, at the reading of this ruling, give a date for the hearing of the appeal.

Dated and delivered at Meru this 18th day of June 2010.

MARY KASANGO
JUDGE