

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Criminal Appeal 365 of 2009

ALVIN KAMANDE NJENGA..... APPELLANT

VERSUS

REPUBLIC.....

.....RESPONDENT

RULING

1. The applicant seeks an order for stay of execution of a sentence of imprisonment for 3 months which was imposed upon him by the Resident Magistrate, Limuru on 17th August, 2009.
2. The main grounds upon which the application is anchored, is the alleged fact that the appeal has overwhelming chances of success. The applicant further contends that should he succeed on appeal without the prayers being granted, he would suffer a conviction and serve a sentence whose legality he has challenged.
3. It is evident that the applicant was sentenced to serve 3 months community service. The possibility of the applicant serving that sentence to completion before his appeal is heard is therefore a very real possibility. I would therefore allow the appeal and suspend the sentence of the applicant pending the hearing and determination of his appeal, on condition that the applicant deposits a sum of Kshs.10,000/= into Court as security.

Those shall be the orders of the Court.

Dated and delivered at Nairobi this 17th day of September, 2009.

H. M. OKWENGU

JUDGE

In the presence of:

.....for the appellant/applicant

.....for the respondent