

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

Criminal Case 106 of 2006

REPUBLIC.....PROSECUTOR

VERSUS

GEORGE KURIA GABRIEL..... ACCUSED

R U L I N G

The preliminary Objection herein is dated 29/4/08 and is based on Sections 72(3) (b) and 77 (1) (2) (b) & (c) of the Constitution.

The application challenges the legality of these proceedings on the ground that the accused was held in custody beyond the constitutionally permitted period of 14 days before being brought to court.

Given that the prosecution has conceded the challenge, I rule as under

1. The Constitutional and Fundamental Rights of the accused was per Section 72(3) (b) have been, are being, and continue to be violated by the proceedings in this Criminal Case No. 106 of 2006.
2. Accordingly, I find and hold that the proceedings are null and void, the same having their genesis on an illegality.
3. I hereby order the release forthwith, of the accused, unless he is otherwise lawfully held.

DATED and delivered in Nairobi, this 27th Day of September, 2008.

O.K. MUTUNGI

JUDGE