

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Criminal Appeal 34 of 2007

PATRICK KIRUI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

PATRICK KIRUI, THE Appellant was charged with unnatural offence contrary to **Section 162(a)** of the **Penal Code**. It is alleged that on 9th January 2007, at [PARTICULARS WITHHELD] Village in Nakuru District within Rift Valley Province, the Appellants had carnal knowledge of PKR against the order of nature. He pleaded guilty and was convicted and sentenced to 15 years imprisonment.

I agree with Mr. Mugambi, learned state counsel, that the language used when taking the plea is not stated. The Appellant's plea cannot therefore be said to have unequivocal. In the circumstances I allow this appeal, quash the conviction and set aside the sentence. The Appellant shall be set free forthwith unless otherwise lawfully held.

DATED and delivered at Nakuru this 11th day of december, 2008.

D. K. MARAGA

JUDGE