



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NYERI**  
**MISC CRIM APPEAL 36 OF 2006**

**REPUBLIC.....APPELLANT**

*Versus*

**ALICE WANGARI KARIMI.....RESPONDENT**

*(Being Appeal against the sentence and conviction by R. NYAKUNDI, Chief Magistrate, in the Chief Magistrate's Criminal Case No. 9 of 2004)*

**RULING**

In this Notice of Motion dated 13<sup>th</sup> November 2006 the Applicant seeks leave of this court to file appeal out of time. The Respondent opposes that application. The main dispute revolves around calculation of the number of days from the date of the judgment complained of to the date on which this application was filed.

While the Applicant says that the judgment was delivered on 18<sup>th</sup> September 2006 as can be seen from Annexure C004, the Respondent's Advocate Mr. Muchira argues that that could not have been so because the letter asking for proceedings and the fee receipt following payment for the proceedings are each dated 11<sup>th</sup> September 2006 and those could only have been done after the judgment in question had been issued. The Principal State Counsel Mr. Charles Orinda represented the Applicant.

In the absence of the lower court's original record, I have no way of finding out the correct date.

As I cannot also speculate on the chance the Appellant has for success in the appeal, I will give the Applicant the opportunity to appeal.

Accordingly, this application is granted and the Applicant to file the intended appeal within seven days from to-day.

***Dated this 19<sup>th</sup> day of February 2007.***

**J. M. KHAMONI**

**JUDGE**