



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

Criminal Appeal 236 of 2006

SYLVESTER MWANDIME MWALIKO.....APPELLANT

VERSUS

REPUBLICRESPONDENT

***(From original ruling dated 31st January 2006 in the Anti Corruption Criminal Case No. 8
of 2005 – Mrs. R.E. Ougo SPM)***

JUDGMENT

SYLVESTER MWADIME MWALIKO the appellant was charged before the Chief Magistrate's court at Nairobi with various counts under the Anti Corruption & Economic Crimes Act No. 3 of 2003. Other three people were charged with him, but on different counts. The charges were filed in 2005, and the case is still pending before the subordinate court. The charges against the appellant appear to be related to the performance of his official functions as Permanent Secretary in the Office of the Vice President and Ministry of Home Affairs.

On the 6th September 2005, the appellant, through his counsel M/s Jane Ondieki & Company advocates, filed before the subordinate court a Notice of Application for Constitutional Reference dated 5th September 2005. This followed a request to the subordinate court by Mrs. Ondieki, alongside counsel for other two accused persons, to refer to the High Court for determination, what they considered to be Constitutional issues.

The Notice of Application for Constitutional Reference on behalf of the appellant was brought under Section 67(1) and 84(3) of the Constitution as well as Rules (2) and (3) of the Constitution of Kenya

ection of Fundamental Rights and Freedoms of the Individual) Practice and Procedure Rules, 2001. It raised ten (10) questions for determination by the High Court in the constitutional reference. It was opposed and argued together with the other applications for Constitutional reference made on behalf of co-accused persons JOSEPH MBUI MAGARI and DAVID LUMUMBA ONYONKA.

On 31st January 2006, the learned trial magistrate, Mrs. Rose Ougo (SPM), delivered her ruling to refer the issues raised to the High Court for constitutional reference. Being aggrieved by the decision of the learned magistrate, the appellant filed this appeal. The grounds of appeal are five, that –

1. The trial magistrate erred in law by conferring on herself the jurisdiction and the powers of the High Court as granted by the Constitution.
2. The trial magistrate erred in law by failing to find that substantial questions of law had been raised

necessitating the matter to be referred to the High Court.

3. The trial magistrate erred in law in finding that an interpretation of S.26(3)(a) vis a vis Section 123(8) of the Constitution and also Section 17(1),(3) and Section 22(3) and Section 26 of the Constitution be dealt with in the course of trial in the magistrate's court.

4. The trial magistrate erred in law in failing to consider that ten questions of law had been raised and only addressed herself to one of the questions.

5. The trial magistrate erred in law in failing to address herself to the actual issues raised.

The appellant sought two prayers. Firstly, that this Honourable court allows the appeal, set aside the ruling and order that the questions set out be heard and determined by the Constitutional Court. The second prayer was that the proceedings in the lower court be stayed pending the hearing and determination of this appeal.

The appeal was initially referred to the High Court Criminal Division, then placed before the Constitutional and Judicial Review Division of the High Court, but was subsequently referred back to the High Court Criminal Division.

At the hearing of the appeal, Mrs. Jane Ondieki appeared for the appellant, while Mr. Okwach and Mrs. Oduor appeared for the State.

Mrs. Ondieki submitted that the appeal was against the decision of the learned trial magistrate delivered on 31.1.2006. She submitted that the appellant, and other accused persons in the subordinate court, informally requested the learned trial magistrate to refer certain questions to the High Court as a Constitutional reference. The learned trial magistrate ordered the accused persons to file formal applications, which they did. The applications for Constitutional reference were argued. The Attorney General opposed the same. In her ruling the learned trial magistrate decided that there were no Constitutional issues requiring reference to the High Court. The learned trial magistrate, further ruled that the issues raised could be raised and determined in the trial before the subordinate court.

Counsel contended that the issues raised were Constitutional and required a reference to the High Court for determination. The Attorney General had given a written legal opinion confirming the validity and enforcement of the acts complained of. It was on the basis of the Attorney General's opinion that the appellant acted. Therefore, the appellant wanted to challenge the decision of the Attorney General to charge him with an offence on documents that the same Attorney General had advised were legally binding. The appellant wanted the Constitutional Court to determine whether the Attorney General acted in a unconstitutional manner or in abuse of his office or whether the Attorney General was an accomplice. IN that context, the appellant was seeking an interpretation of Section 123(8) vis-à-vis Section 26 of the Constitution. Counsel also argued that, appellant wanted to get an interpretation from the High Court, whether the Attorney General should hold office during the trial in the subordinate court.

Counsel submitted that the learned trial magistrate erred in holding that the issues raised could be determined in the trial in the subordinate court. She sought to rely on the case of GITHUNGURI – vs – REPUBLIC [1986] KLR 1 in which, she contended, the court held that subordinate courts did not have inherent powers to deal with Constitutional issues. In her view, only the High Court had powers to question the manner in which a decision to prosecute by the Attorney General had been arrived at. Counsel contended that only the High Court had jurisdiction to deal with issues regarding abuse of power. It was counsel's position therefore that, when the learned trial magistrate stated in the ruling that the issues raised would be canvassed and determined during the trial, in effect, the learned trial magistrate was conferring on herself jurisdiction of the High Court to deal with Constitutional issues.

Counsel submitted further that there was also the issue as to whether the Anti Corruption and Economic Crimes Act No. 3 of 2003 could be applied retrospectively, either in whole or part. The Act came into force on 2nd May 2003, but in the 1st, 4th and 5th counts, the appellant was charged with committing the

offence under the Act between January 2003 to December 2003.

Counsel also raised the issue of charges falling under two Acts of parliament. She contended that some charges fell under the Anti Corruption and Economic Crimes Act 2003, while the particulars were under the Penal Code (Ca. 63). It was counsel's contention that in the case of MEME – vs – REPUBLIC [2004] 1 KLR 637 it was decided that offences under the Anti Corruption and Economic Crimes Act No. 3 of 2003 and offences under the Penal Code were different offences. It was her contention that under the Penal Code prejudice was an ingredient of the offence. She submitted that the mix up of different Acts would result in a situation where the appellant would not know how to defend himself. This, she contended, was in contravention of Section 77(8) of the Constitution. Counsel submitted that the learned trial magistrate could not confer on herself constitutional jurisdiction to interpret section 77(4)(8) of the Constitution. In counsel's view the magistrate erroneously relied on High Court Miscellaneous Application No. 994 of 2004, which was irrelevant to the application for constitutional reference.

Counsel submitted further, that the learned trial magistrate dealt with only two questions out of the ten (10) questions which were framed. The learned magistrate never addressed herself to the remaining 8 questions.

Counsel also submitted that, though the learned trial magistrate ruled that the appellant was seeking an interpretation of Section 17,18,22(3) and 26 of the Constitution, she did not rule on the issue whether there was conflict in the powers of the Attorney General versus the powers of the Minister for Justice and Constitutional Affairs nor did the magistrate deal with the issue of the doctrine of separation of powers. She sought to rely on the case of CHRISTOPHER MURUNGARU – vs – KACC and ATTORNEY GENERAL – Application No. Nairobi 43 of 2006 (241/2006), in which counsel contends the Court of Appeal held that only the High Court had powers of interpretation and enforcement of the Constitution.

Counsel submitted that this court had jurisdiction to entertain the appeal and grant the prayers sought. The appellate jurisdiction of the High Court was conferred by Section 67 of the Constitution. Therefore this court had powers to set aside the learned trial magistrate's ruling and order that the questions raised be heard and determined by the constitutional court.

Counsel submitted that the second prayer in the appeal, was for stay of proceedings in the lower court against the appellant only, pending the hearing and determination of this appeal. She submitted that the case was due to proceed to hearing before the subordinate court on 12.3.2007. She submitted that, if the proceedings in the subordinate court continued, the appeal herein would be rendered nugatory.

Mr. Okwach, for the Attorney General, opposed the appeal. He submitted firstly, that it was not correct to say that the subordinate court had no powers to deal with Constitutional issues. In his view, that contention was not wholly correct, as the subordinate court had certain powers with regard to dealing with Constitutional issues.

On the jurisdiction of this court to entertain this appeal, Mr. Okwach submitted that the appellant's complainants were mainly based on Sections 74 and 77 of the Constitution. Both sections came under part V of the Constitution (Sections 70 and 84), which dealt with infringements of fundamental rights and freedoms. The procedure for enforcing those rights was provided under Section 84(3) of the Constitution. Under that section however, there was no right of appeal. The Chief Justice had, nonetheless, powers to promulgate rules for enforcement of those sections. As at the time of the proceedings before the learned trial magistrate, the rules applicable were those made by the Chief Justice under Legal Notice Number 133 of 2001. Rule 4 was relevant. It provided that where the learned trial magistrate declined to refer the matter for Constitutional interpretation he shall proceed with the trial, without prejudice to the applicant's right in renewing the application before the High Court.

He contended that the High Court did not have jurisdiction to hear an appeal from the refusal of the learned trial magistrate to refer the issues for Constitutional interpretation. An appeal could only lie to the High Court after conviction. Even the new rules promulgated by the Chief Justice under Legal Notice No. 6 of 2006, did not contain a provision for appeal. In fact, rule 11 provided that an application had to

be made directly to the High Court. Administratively, that application should go to the Constitutional & Judicial Review Division of the High Court, not the High Court Criminal Division.

On the role of the subordinate court in interpretation of the Constitution, Mr. Okwach submitted that the application for Constitutional reference was made under section 67(1) and 84(3) of the Constitution and Rules. With regard to section 67 of the Constitution, the learned trial magistrate had jurisdiction to determine whether there were Constitutional issues. He submitted that the learned trial magistrate had jurisdiction to examine the complaint and form an opinion as to whether there was a substantial point of law. The learned trial magistrate had discretionary power to determine whether there was indeed a substantial point of law. In his view, the trial magistrate properly exercised that power. Though there was provision for appeal to the High Court under section 67(4) of the Constitution, this did not cover fundamental rights under section 84. He submitted that, if there was a proper appeal under section 67, then subsection (3) provided that unless in an interlocutory matter the appeal shall be heard by a panel of at least 3 judges.

Counsel submitted that under new rules promulgated by the Chief Justice in 2006, rule 36(1) provided that any matter pending would be continued under the 2006 rules. These 2006 rules do not mention any appeal. Rule 8 lifted the words in the Constitution, but left out the element of the opinion of the subordinate court and substituted the word “may” used in the Constitution, with the word “shall”. He contended that subsidiary legislation could not amend the Constitution.

On stay of proceedings, he submitted that the rules did not provide for stay of proceedings. Only under enforcement jurisdiction, that is sections 70 to 80 of the Constitution, was there provision for stay of proceedings. He submitted that stay of proceedings should not apply in cases where one was seeking for interpretation of the Constitution, as nothing was actually being taken away from him. However, if the complaint was on enforcement of fundamental rights, which was a denial or contravention of rights, then there was need for stay of proceedings.

He submitted further that the appellant could not fallback on section 65 of the Constitution, which dealt with supervisory jurisdiction by the High Court and was limited to situations where there was no enforcement procedure provided.

Counsel further, submitted that it was not correct to say that the learned trial magistrate did not consider issues. There were notices of applications filed and issues were canvassed by counsel for the accused persons for at least five days. It was his contention that the appellant merely filed a brief statement before the learned trial magistrate and, other than the charge sheet which had already been filed, the appellant did not place material before the learned trial magistrate to assist the learned trial magistrate in forming an opinion. He submitted that the case against the appellant involved the Anglo Leasing contracts, and there were many documents going to be relied upon by the prosecution.

Counsel submitted that the appellant had two options. Either to take the route he took, which limited him and the learned trial magistrate on disclosure, or to go by way judicial review, in which case the parties would be obliged to disclose as much information and evidence as possible. He submitted that the facts to be considered by a trial magistrate under section 67(1) of the Constitution were set out in the two GITHUNGURI cases of 1985 and 1986 – reported in (1986) KLR 1. For proceedings to be interfered with, they must be malicious, oppressive and also not in the public interest. He submitted that in the GITHUNGURI case (page 9) the High Court set out the prerequisites for a reference to the High Court. Section 26 of the Constitution on the powers of the Attorney - General was considered by the court in the GITHUNGURI case. He submitted that, in the present case, the Attorney General gave an opinion only on the validity of the promissory notes which did not refer to the duties of the appellant. In the GITHUNGURI case, investigations had been carried out and Mr. Githunguri was informed that he would not be prosecuted. That was a question of bringing a prosecution, not a question of interpretation. He contended that it was wrong for the appellant, in this case, to have invoked both section 67(1) and 84(3) of the Constitution simultaneously before the learned trial magistrate.

He submitted that in the MEME case, the court ruled that where a charge sheet contained various

charges under different legislation, and one of those legislations had been repealed, that did not become a Constitutional question.

Counsel urged this court to find that it had no jurisdiction to entertain the appeal. However, in case I find that this court has jurisdiction, then I should dismiss the part of the appeal that may be grounded on sections 70 to 84 of the Constitution as there was no provisions for appeal. On the appeal relating to Section 67(1) of the Constitution, I should dismiss the same as the complaints did not relate to interpretation of the Constitution. He also contended that the orders sought could not be granted that this court. Counsel lastly, urged me to dismiss the prayer for stay, as this court did not have jurisdictions to order a stay of proceedings under section 67 of the Constitution.

In reply, Mrs. Ondieki, submitted that this court had jurisdiction to hear and determine this appeal, as the parties had been before Hon. Justice Nyamu of the High Court Constitutional and Judicial Review Division who referred the appeal to the High Court Criminal Division. She submitted that section 67(4) of the Constitution provided for the right of appeal, but did not provide for the manner of appealing.

Counsel further submitted that rule 8 of the 2006 Rules had a grey area, as it did not provide for appeal. Rule 34 provided for appeals from the High Court only to the Court of Appeal. She contended that as the Constitution could not be amended by rules, this appeal was properly before the High Court.

On the documents filed and questions framed, Counsel submitted that as at the time that the application was made, the 2006 rules promulgated by the Chief Justice, had not come into operation. The previous (2001) rules provided for an informal application. That was why the application was made informally. She reiterated that section 67 of the Constitution did not confer on a learned trial magistrate jurisdiction in Constitutional matters. She also submitted that in the GITHUNGURI case, the court held that the exercise of powers of the Attorney General should be done fairly. She submitted that count No. 3 of the charges against the appellant clearly related to the repercussions of the actions that the appellant took, following the opinion of the Attorney General.

On stay of proceedings, Counsel reiterated that this court had power to stay proceedings. She relied on MURUNGARU case, in which the court held that stay might not be necessary in civil cases, but that matters with penal consequences must be treated differently, and a stay of proceedings may be ordered.

At the close of submissions, I reserved judgment and granted stay of proceedings before the subordinate court until delivery of judgment. I considered that such an order of stay would avoid parallel proceedings. I was alive to what was stated by the Court of Appeal in their ruling in DR CHRISTOPHER NDARATHI MURUNGARU –vs- KENYA ANTI CORRUPTION COMMISSION AND ATTORNEY – GENERAL – Application No. Nairobi 43 of 2006 (241/2006), that –

“But matters involving penal consequences must, of necessity be treated differently. It can be of no consolation to tell a man that his appeal will not be rendered nugatory even if he went to prison for only one week”.

I was also alive to the provisos under section 354(3) of the Criminal Procedure Code (Cap. 75 of the Laws of Kenya) on the powers of the High Court on appeal, which is that –

“and in any case make any amendment or any consequential or incidental order that may appear just and proper”

The order I made for stay of proceedings before the subordinate court pending hearing and determination of the appeal exhausted the second prayer in the appeal.

The first issue that arises in this appeal is whether this court has jurisdiction to entertain this appeal. Mrs. Ondieki learned counsel for the appellant has argued that this court has jurisdiction to entertain this appeal, while Mr. Okwach learned counsel for the State has argued that this court has no jurisdiction to entertain this appeal. Counsel contended that if the court has jurisdiction, then unless it is in an

interlocutory matter, the appeal has to be determined by a panel at least 3 judges in accordance with the provisions of section 67(3) of the Constitution.

The right of appeal to a higher court, from a decision of a lower court, has to be conferred by law. The Notice of an Application for Constitutional Reference filed on behalf of the appellant on 6th September 2005 was purported to be brought under Section 67(1) and 84(3) of the Constitution, as well rules (2) and (3) of the Constitution of Kenya (Protection of Fundamental Rights and Freedoms of the Individual) Practice and Procedure Rules, 2001. Section 84(3) of the Constitution which deals with questions arising from contravention of the fundamental rights and freedoms under section 70 to 83 does not provide for appeals to the High Court.

However, section 67(4) provides –

67(4) Where a subordinate court or court martial has given a final decision in civil or criminal proceedings on a question as to the interpretation of this Constitution, and the question has not already been referred to the High Court under subsection (1) of this section or under Section 84(3), an appeal shall lie against that decision as of right to the High Court,

In my view, the requirements for a right of appeal under section 67(4) of the Constitution are three.

Firstly, there has to be a question on interpretation of the Constitution in civil or criminal proceedings before a subordinate court.

Secondly, the subordinate court has to have made a final decision on the question.

Thirdly, the question has not already been referred to the High Court under section 67(1) or under section 84(3) of the Constitution.

Mr. Okwach contends that a right of appeal can only arise after conviction. That is correct. The right of appeal arises when the subordinate court has given a final decision on the question or questions as to the interpretation of the Constitution. In my view, the ruling of the learned magistrate cannot be said to be a final decision on the questions on interpretation of the Constitution. It was only a ruling declining to refer the issues raised to the Constitutional Court. It was not a final decision on the issues raised. The final decision of the magistrate will be made in the judgment. An appeal will only lie to the High Court as of right, after judgment is delivered by the magistrate.

The second issue is whether the learned trial magistrate erred in her ruling and conferred on herself Constitutional jurisdiction. Both section 67(1) and section 84(3) of the Constitution address the issue.

Section 67(1) of the Constitution, provides –

“67(1) where a question as to the interpretation of this Constitution arises in proceedings in a subordinate court and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if a party to the proceedings so requests, refer the question to the High Court”.

Section 84(3) of the Constitution, on the other hand, provides –

“84(3) if in proceedings in a subordinate court a question arises as to the contravention of any of the provisions of sections 70 to 83(inclusive), the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous not and vexatious”.

Ten questions were raised before the magistrate on behalf of the appellant as follows –

1. Whether the Anti-Corruption and Economic Crimes Act, 2003 Act No. 3 of 2003) can be applied retrospectively whether in part or in full.

2. Whether in light of the concurrent application of the Anti-Corruption and economic Crime Act, 2003 (Act No. 3 of 2003) and the Penal Code Chapter 63 Laws of Kenya on the 1st, 2nd and 4th counts of the charges preferred against 1st Accused/Applicant:

(a) *Valid charges exist in law*

(b) *The same charges preferred against the 1st accused are null and void*

(c) *Whether the 1st Accused/Applicant is being or is likely to be denied the “Presumption of Innocence” secured by Section 77(2) of the Constitution and whether the same charges against the 1st Accused/Applicant are against the Principles of Natural Justice.*

3. Whether the Honourable the Attorney – General is estopped from instituting legal proceedings where he has confirmed in writing the legal validity and enforceability of the act complained of.

4. Whether having regard to the above, and even assuming an offence was committed, the Honourable the Attorney – General is in law an accomplice and hence involved in prosecutorial impropriety, abuse of office and whether the prosecution of the 1st accused/Applicant in the circumstances is an abuse of the due process of the court.

5. Whether having regard to the above and the circumstances of the matter the prosecution of the 1st Accused/Applicant is discriminatory and inconsistent with the provisions of section 82(2) of the Constitution of Kenya.

6. Whether having regard to the above and to the provisions of sections 26 and 123 (8) of the Constitution of Kenya, the Honourable the Attorney – General should continue to hold office during the hearing and determination of this case.

7. Whether having regard to all the circumstances of the matter and the Ministerial statement by the Vice-President, Minister for Home Affairs and National Heritage and Leader of Government Business Honorable Moody Awori to Parliament on 27th April 2004 and the statement by the Minister for Justice and Constitutional Affairs Honourable Kiraitu Murungi on 11th January 2005, the decision by the Attorney General to charge and prosecute the 1st Accused/Applicant is oppressive, vexatious and a gross abuse of the process of the court.

8. An interpretation as to whether the provisions of Section 17(1), (3) Section 22 (3) and 26 of the Constitution are in conflict in relation to the powers of the Attorney – General vis a vis the powers of the Minister for Justice and Constitutional Affairs and the doctrine of separation of powers.

9. Whether the pre-trial publicity in relation to the charges facing the 1st accused/applicant is an infringement of the constitutional rights on the 1st accused/applicant to a fair trial.

10. Whether having regard to the above and to all the circumstances of the matter, the 1st Accused/Applicant is likely to be denied a fair trial and whether the charges against the 1st Accused/Applicant are against the Principles of Natural Justice.

In declining to refer the issues raised to the High Court the learned magistrate stated –

“.....I am being asked to make reference to the High Court on issues raised that touch on the charges stated on the 1st accused application, the Attorney – General’s conduct in instituting these proceedings whether what was done was discriminatory or not, the Attorney – General’s powers as stated in section 26(3) (a) and 123(8) of the Constitution of Kenya and an interpretation of section 17(1) (8) and 5.....

The issues raised by the 3 accused persons to this court are not constitutional issues that require this court to make a reference to the High Court. I find that questions raised to the Attorney General's conduct as relates to section 26(3)(a) of the Act can be comfortably dealt with during the trial. The Attorney General's conduct as the prosecutor or investigator or consultant can be challenged during the trial to show that he acted selectively, oppressively or was an accomplice.....”

Counsel for the appellant has argued strenuously that the learned trial magistrate did not have Constitutional jurisdiction. She argued that the import of the ruling was that the magistrate conferred on herself Constitutional jurisdiction which she did not have. She has cited several authorities.

My perusal of Section 67(1), Section 84(3), as well as Section 67(4) of the Constitution leads me to the conclusion that the subordinate court has limited jurisdiction in Constitutional matters. Under Section 67(1), where a question as to the interpretation of the Constitution arises in proceedings, the subordinate court is required to form an opinion whether the question involves a substantial question of law, and if so, refer the question to the High Court. Under Section 84(3), where a question arises as to the contravention of any of the provisions of sections 70 to 80 the magistrate has to form an opinion whether it is frivolous or vexatious before referring the same to the High Court. Under Section 67(4), where a final decision has already been made by the subordinate court in civil or criminal proceedings on a question as to the interpretation of the Constitution, an aggrieved party is allowed as of right to appeal to the High Court.

It appears to me that under the Constitutional provisions, the subordinate court has a discretion, on the parameters set, to refer a Constitutional issue to the High Court. In this, I am fortified by what was stated, albeit orbiter a three Judge High Court bench in the case of STANELY MUNGA GITHUNGURI – vs – REPUBLIC [1986] KLR 1, at page 9 that

“In our view two prerequisites are required for a reference of the Constitutional court. First the question must involve the interpretation of the Constitution; secondly, the subordinate court must be of the opinion that the question involves a substantial question of law”.

I was referred to the case of DR. CHRISTOPHER NDARATHI MURUNGARU –vs- KENYA ANTI-CORRUPTION COMMISSION AND ATTORNEY-GENERAL Civil Application

No. Nairobi 43 of 2006 (24)/2006 – in which the Court of Appeal stated –

“The only institution charged with the duty to interpret the provisions of the Constitution and to enforce those provisions is the High Court and where it is permissible with an appeal to the Court of Appeal”

I am bound by the decision of the Court of Appeal and fully agree with it. The decision of the Court of Appeal is in the line with the Constitutional provisions. The decision did not remove the considerations of the magistrate given by the Constitution in determining whether to refer issues to the Constitutional Court. Even where the magistrate declines to refer issues to the Constitutional court, like in this case, there is a Constitutional right of appeal to the High Court on those purportedly Constitutional issues. Ultimately, it will be the High Court to interpret and enforce the provisions of the Constitution. However, the subordinate court has specific powers conferred to it under Section 67(1) and 84(3) of the Constitution.

In our present case, the learned trial magistrate merely exercised the powers conferred to her by the Constitution, by declining to refer the issues raised to the Constitutional court. I find no contravention of the constitutional provisions by the magistrate in the decision that she made. The learned magistrate did not confer on herself Constitutional jurisdiction which she did not have.

The determination of these two issues really determine the appeal.

I find no merits in the appeal and have to dismiss it.

Consequently, I dismiss the appeal and uphold the ruling of the learned trial magistrate.

It is so ordered.

Dated and delivered at Nairobi this 18th May 2007

GEORGE DULU

JUDGE

In the presence of-

Mrs. Ondieki for appellant.

Mr. Okwach & Mrs Oduor for State

Eric – Court clerk

George Dulu

Judge