



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MALINDI**  
**Criminal Revision 57 of 2007**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**SIMON MAINA MWANGI.....ACCUSED**

**J U D G M E N T**

The accused, Simon Mwangi, was released on revision to serve Community Service Order (C.S.O.) for 10 months being the balance of his sentence. He was posted to work at the Malindi beach cleaning programme. Conrad Masinde (PW1) testimony is that he did not work at all. He absconded immediately upon his release. He is thus in contravention of section 5 (b) of the Community Service Order.

The accused in his defence has testified that his child was unwell at Kerugoya. He left after working for approximately 1 ½ week to attend to the said child. However, he has not tendered evidence of his child's sickness or death. The court has the testimony of the prosecution through probation officer (PW1) and that of the accused.

I prefer the testimony of the prosecution to that of the accused because no evidence regarding the sickness and eventual demise of his child has been received in evidence. The accused person is thus economical with the truth. Accordingly, I cancel the Community Service Order in respect of the accused and order that he be returned to G.K. Prison Malindi to finish the balance of his term which stood at 10 months before his release. Ordered accordingly.

Dated and delivered at Malindi this 23<sup>rd</sup> day of July, 2007.

**N.R.O. OMBIJA**

**J U D G E**