

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUNGOMA

Criminal Appeal 28 of 2005

(Arising from Original Webuye SRM Cr. No.486 of 2002)

ISAAC JUMA WANYONYI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

On 13th December, 2006, Mr. Korir for the appellant fixed the hearing of the appeal herein ex-parte and served counsel for the respondent with a Hearing Notice for today's date.

When the appeal came up for hearing,

Mrs. Mumalasi, on behalf of Mr. Korir asked for an adjournment on the grounds that Mr. Korir is indisposed.

Mr. Onderi for the Republic, strenuously opposed the application for adjournment and submitted that Mr. Korir has made similar applications on 29th September, 26th October 2005, 16th November 2005 and 13th December 2005.

That it would therefore appear that Mr. Korir is up to some mischief. In the circumstances, the appeal should be dismissed under Section 354 (3) of the Criminal Procedure Code.

I have on my part, perused the entire record and find as a fact that several applications have been made at the behest of Mr. Korir for the appellant on 26th October 2005, the other occasions were on different grounds –bereavement and absence of the accused at the hearing.

I am not sure whether Mr. Korir is indisposed or not but I take the liberty of giving benefit of doubt to counsel.

However, I warn him that the appeal risks being dismissed in the event that he fails to turn up on a date fixed for the hearing of the same.

I order that this appeal be heard on the 13th day of March 2006 at Bungoma.

Dated and delivered this 14th day of February 2006.

N.R.O. OMBIJA

JUDGE