



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
Criminal Appeal No. 340 of 2002
JACKSON WARUI**

JACKSON WARUI

NJERU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the judgment of Abdul El Kindly,

Principal Magistrate, undated, in the Principal Magistrate's

court, Muranga, Criminal Case No.1599 of 2001

JUDGMENT

The Appellant was convicted of the offence of robbery with violence contrary to section 296 (2) of the penal Code and sentenced to death. He appealed and during the hearing of his appeal, the Provincial State Counsel, Charles Orinda told us that he was not supporting the conviction of the Appellant for the following reasons:

Firstly, a substantial part of the trial of the Appellant was prosecuted by a prosecutor who was not qualified to prosecute in terms of section 85 (2) of the Criminal Procedure Code. The trial therefore was a nullity.

Secondly, the evidence was not sufficient to support a conviction.

We have looked at the record and we respectively find no good reason to disagree with the learned state counsel.

Accordingly, we do hereby declare the trial of the Appellant a nullity . Allow this appeal. Quash the conviction thereof and set aside the sentence imposed upon the Appellant.

We do order that the Appellant be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 31st day of March, 2006.

J. M. KHAMONI

JUDGE

H. M. OKWENGU

JUDGE

Present

Appellant in Person.

Mr. Orinda for the Republic.

Martin Mwangi – Court clerk