



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NYERI**

**Criminal Appeal 287 of 2003**

**GEOFFREY MURIITHI LAWRENCE.....APPELLANT**

**Versus**

**REPUBLIC.....RESPONDENT**

**(Being an appeal from the judgment of J. N. Nyaga, Senior**

**Resident Magistrate, dated 24<sup>th</sup> July 2003, in the Senior Resident**

**Magistrate's Court, Karatina, Criminal Case No.444 of 2003)**

**JUDGEMENT**

The Appellant was charged with the offence of robbery with violence contrary to Section 296 (2) of the Penal Code, but was convicted of robbery contrary to section 296 (1) of the Penal Code and sentenced to four years imprisonment with four strokes of the cane. When his appeal came before us for hearing, the learned State Counsel, m/s Ngalyuka told us that she was conceding the appeal because the trial of the Appellant was a nullity as the prosecutor, Police Constable Muindi, was not a qualified prosecutor in terms of Section 85 (2) of the Criminal Procedure Code. The State Counsel added that she was not asking for a retrial.

We have looked at the record from the trial magistrate's court and we have no reason to disagree with what the State Counsel said, the Appellant having also accepted it.

Accordingly, we do hereby declare the trial of the Appellant a nullity, allow his appeal, quash his conviction and set aside the sentence imposed upon him.

The Appellant be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 3<sup>rd</sup> day of May, 2006.

**J. M. KHAMONI**

**JUDGE**

**H. M. OKWENGU**

**JUDGE**

**Present:**

The Appellant in person.

M/s Ngalyuka for the Republic

Martin Mwangi – Court clerk