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

Misc Crim Appli 310 of 2006

FRANCIS MUIRURI KANGETHE…….....……..APPLICANT

VERSUS

REPUBLIC ……..…….....……..RESPONDENT

R U L I N G

The Applicant's application dated 8th June 2006 seeks no prayers at all. However, from the supporting affidavit he seems to be saying that he has lost confidence with the trial court on grounds that he has not been given statements of witnesses and on allegation that the case proceeded in his absence.

The State put in a replying affidavit in which the Applicant's allegations were denied.

I have the trial file with me and I see from it that the trial has proceeded in the Applicant's presence all along and opportunity to cross-examine witnesses granted to him. The record appears to suggest that the Applicant had in few occasions refused to go to the court room for hearing. That is demonstrated at the beginning of the trial where one **Mrs. Muchira** was allocated the case for hearing and subsequently before **Mrs. Wasilwa** when the case was later allocated to her. During those occasions the hearing did not proceed. The Applicant's allegations are not supported by the record.

Since the Appellant has made no prayers, none can be granted. I must however comment that the Applicant seems to be a malingerer and seems bent to delay the finalization of the case even though he is not the only one to blame. The trial court is advised not to allow unnecessary adjournments especially by the prosecution who from the record have had their day in court.

The matter should be heard and finalized expeditiously especially because it is a retrial.

Those are the orders of his court.

Dated at Nairobi this 12th day July 2006.

LESIIT, J.

JUDGE

Read signed and delivered in the presence of;

Applicant in person

Mr. Makura for the State/Respondent

LESIIT, J.

JUDGE