

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
Criminal Appeal 01 of 2004

TERACISIO WAMBUGU KARAAPPELLANT

VERSUS

REPUBLIC RESPONDENT

(An appeal from the Judgment of M.R. Gitonga, Principal Magistrate, dated 6th

November, 2003;

In

Criminal case No. 52 OF 2003 of the Chief Magistrate's Court, Nyeri.)

JUDGMENT

Apart from the fact that the learned Provincial State Counsel, Mr. Charles Orinda, conceded this appeal on the ground that the trial was a nullity because the Prosecutor was not qualified in terms of Section 85(2) of the Criminal Procedure Code, we were informed the Appellant who had been sentenced to two years imprisonment on the alternative count of handling stolen property contrary to Section 322(2) of the Penal Code, served part of that sentence before he was released on the Presidential Pardon.

That being the position and notwithstanding the fact that the Appellant is already released, 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.

Dated this 27th day of September, 2006.

J.M.KHAMONI

JUDGE

H.M. OKWENGU

JUDGE