REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

MISC. CRIMINAL APPLICATION NO. 32 OF 2005

REPUBLIC ::APPLICANT
V E R S U S
WYCLIFFE ALUBOKHO WANGA :::::::::::: RESPONDENT

R U L I N G

The Applicant, the Republic of Kenya, sought in its application dated 11-5-2005 leave to file appeal out of time from the Ruling of the Resident Magistrate at Mumias made on 23-3-2005 in Mumias Criminal Case No.1507 of 2004. The application seeking a copy of the judgement and proceedings was made immediately after the ruling but it was not until 04.05.2005 that the court certified the same and furnished the State Counsel, Mr. Daniel Karuri with a copy on 5-5-2005.

I am satisfied that the Applicant's inability to enter appeal within the time laid down by section 349 of the Criminal Procedure Code Cap.75 was caused by the failure of the lower court to supply the applicant with a copy of the Ruling and Proceedings within a reasonable time. In these circumstances, I allow the application and grant the applicant leave to file appeal out of time. I order that the Petition of Appeal shall be filed within 14 days from the date of this order.

I also allow the application in H.C.CR.MISC. Application No.31 of 2005 and make orders in that application similar to these ones.

It is so ordered.

Dated at Kakamega this 14th day of July, 2005.

G. B. M. KARIUKI
J U D G E