

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIM APP 268 OF 03

AMOS KARISA TUVA APPELLANT

VERSUS

REPUBLIC RESPONDENT

JUDGEMENT

In the light of the fact that the prosecution in the lower court was conducted by an unauthorized officer contrary to Section 85(2) CPC, the proceedings were a nullity. Accordingly this appeal is allowed, conviction quashed and the sentence set aside. Appellant to be set at liberty unless otherwise lawfully held. It may not be worthwhile to order a retrial, without the lower court record not being clear on whether the cow allegedly stolen was recovered or not. Judgement accordingly.

Delivered on 6th January 2004.

J MWERA

JUDGE