

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL APPEAL NO. 81 OF 2003

ROBIN MUNENE WARUI.....APPELLANT

Versus

REPUBLIC.....RESPONDENT

CRIMINAL APPEAL NO. 83 OF 200

ANDREW MUTUGI MWANGI.....APPELLANT

Versus

REPUBLIC.....RESPONDENT

(Appeal against judgment by J. M. Githaiga, Resident Magistrate, in the Resident Magistrate's Court at Baricho, Criminal Case No. 631 of 2002)

JUDGMENT

These two appeals were consolidated for hearing. The learned State Counsel M/S Ngalyuka concedes that trial of the Appellants herein was a nullity because the prosecutor was not qualified in terms of Section 85 (2) Criminal Procedure Code.

Accordingly, the said trial is hereby declared a nullity and the Appellants' appeals herein allowed.

The conviction of each Appellant be and is hereby quashed and the sentence imposed upon him set aside. Each Appellant be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 2nd day of December 2004.

J. M. KHAMONI

JUDGE