

IN THE HIGH COURT OF KENYA AT NYERI
HIGH COURT CRIMINAL APPEAL NO. 261 OF 2002

MWANGI KIRAGI.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT

**(Appeal from a judgment of the
Resident Magistrate's Court at Baricho,
J. M. Githaiga, D. M. II (Prof), dated 6
th
May, 2002 in
Criminal Case No. 188/02)**

JUDGMENT

The learned State Counsel concedes the appeal on the ground that the prosecution's case was handled by a police constable, an officer not qualified to prosecute as a public prosecutor.

On the basis of the Court of Appeal's decision in the case of

Roy Richard Eliriema & Another

Vs

Republic

in Criminal appeal No. 67/2000 at Mombasa,

the trial in this matter before the trial magistrate is hereby declared a nullity and the Appellant's appeal herein allowed, his conviction quashed and the sentence set aside. He be released forthwith unless lawfully detained in some other cause.

Dated this 10th day of November, 2003.

J. M. Khamoni

Judge