Nyaigoti v Republic (Criminal Appeal E021 of 2021) [2024] KEHC 2837 (KLR) (14 March 2024) (Judgment)

Neutral citation: [2024] KEHC 2837 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NYAMIRA

CRIMINAL APPEAL E021 OF 2021

WA OKWANY, J

MARCH 14, 2024

BETWEEN

WILLIAM MIGE NYAIGOTI .... APPELLANT

AND

REPUBLIC .... RESPONDENT

(Being an Appeal from the Conviction and Sentence in Criminal Case No. 854 of 2020, consolidated with Criminal Case No. 197 of 2021 in the Chief Magistrate's Court at Nyamira by Hon. M.O. Wambani, Chief Magistrate on 5th and 12th August 2021 Respectively)

JUDGMENT

1. The Appellant herein, who was the 1st accused before the trial court, was charged alongside one Joel Andayi Mokua alias Hassan Mokua (2nd Accused) with various counts as follows: -

    1. Count 1: Burglary contrary to Section 304 (2) and Stealing contrary to Section 279(b) of the *Penal Code*. The particulars were that on the 1st and 2nd day of March 2020 at Gucha Village Kegogi sub-location, Bosamaro-Masaba location within Nyamira County, they jointly broke and entered a dwelling house of Vincent Ochao Mecha with intent to steal therein and did steal from therein one Solinic Solar Panel, the property of Vincent Ochae Mecha, the said Solinic Solar Panel valued at Kshs. 3,800/=.

        They Appellant faced the alternative of handling stolen goods contrary to Section 322(1) as read with Section 322(2) of the *Penal Code*. The particulars were that on the 4th day of September 2020 at Gucha Village, Kegogi sub-location in Bosamaro- Masaba, location within Nyamira County, otherwise than in the course of stealing, he dishonestly retained one Solinic Solar Panel of 60 Watts knowing or having reasons to believe it to be stolen goods.

2. Count 2: Burglary contrary to Section 304 (2) of the Penal Code and Stealing contrary to Section 279(b) of the *Penal Code*. The particulars were that on the 11th day of January 2018, at Gucha Village Kegogi sub-location in Bosamaro- Masaba, location within Nyamira County, they jointly broke and entered a dwelling house of Duke Nyakundi Omayo with intent to steal therein and did steal therein one GLD sub-woofer and one GLD remote control system, the property of Duke Nyakundi Omayo, the said sub-woofer and remote control being of value Kshs. 7,000/=.

   The Appellant faced the alternative charge of handling stolen goods contrary to Section 322(1) as read with Section 322(2) of the *Penal Code*. The particulars were that on the 4th day of September 2020 at Gucha Village, Kegogi sub-location in Bosamaro- Masaba, location within Nyamira County, otherwise than in the course of stealing, undertook the retention of one GLD sub-woofer and GLD remote control system, knowing or having reasons to believe them to be stolen goods.

3. Count 3: Stealing contrary to Section 268 (1) as read with Section 275 of the *Penal Code*. The particulars were that on the 17th day of July 2018, at Gucha Village Kegogi sub-location in Bosamaro- Masaba, location within Nyamira County they jointly stole one power-saw of Hursqvarna 272 valued at Kshs. 65,000/= the property of Jones Matara Kenyambi.

   The Appellant was also charged with the offence of handling stolen goods contrary to Section 322 (1) as read with Section 322(2) of the *Penal Code*. The particulars were that on the 4th day of September 2020 at Gucha Village, Kegogi sub-location in Bosamaro- Masaba, location within Nyamira County, otherwise than in the course of stealing, he retained one GLD power-saw of Hursqvarna 272 knowing or having reasons to believe it to be stolen goods.

2. The Appellant pleaded not guilty to all the charges and a trial thereafter ensued in which the prosecution called a total of 5 witnesses in support of its case as follows: -

3. PW1, Benson Bosire Nyangeso, the Chief of Bosamaro Masaba location testified that on 4th September 2020, members of the public reported to him that some stolen goods were allegedly kept in the house of one Gesare Orumo. He proceeded to the said house in the company of village elders where they found one Dennis, Samuel and Vincent Onyoni. They interrogated Dennis and Vincent who admitted that they had stolen and kept some stolen goods at the Appellant's house. They then proceeded to the Appellant's house where they recovered several stolen goods hidden in different places including the roof and a house that was still under construction.

4. PW1 testified that they also found a solar panel, a power-saw, a sub-woofer, a generator, green water pipe, 3 sewing machines, motor bike spare-parts in the house under construction. He stated that a television set was recovered under the Appellant's bed in the presence of the Appellant and his son.

5. PW2, Vincent Mecha, the complainant in respect to the first charge testified that his solar panel was stolen from his house on the night of 1st/2nd March 2020. He later positively identified the solar panel among the goods that were recovered by the area chief. He produced the purchase receipts in respect to the said panel as PExh. 4 showing its serial No. 1910413434431 from Sungusia Electrical amongst other items.

6. PW3, Duke Nyakundi Omaiyo, the complainant in the second charge narrated how thieves broke into his house on 11th January 2018 and stole his sub-woofer, remote and 2 speakers. He stated that he was later able to positively identify his sub-woofer make GLD among the stolen goods that the area chief had recovered from the Appellant's house.

7. PW4, Jones Matara Kenyambi, the complainant in the 3rd Charge testified that his power saw was stolen on 27th January 2018. He also positively identified his power saw among the stolen goods that the chief had recovered from the Appellant's house. He identified the power saw as No. 272 make Husqvarna which he had purchased in 2017 from M-tailor for Kshs. 65,000/=. He produced the purchase receipt as PExh.9.

8. PW5, No. 229105 PC Benard Heresy, was the investigating officer. He reiterated the information that was given to him by PW1, PW2, PW3 and PW4 over the circumstances under which the stolen goods were recovered from the Appellant's custody. He produced the solar panel, power saw, sub-woofer system and remote control before the trial court as exhibits. PW5 further testified that he arrested the suspects and charged them with the offences before the trial court.

9. At the close of the Prosecution's case, the trial court found that the Appellant and his co-accused had a case to answer and placed them on their defence in accordance with the provisions of Section 211 of the *Criminal Procedure Code*. The Appellant and his co-accused elected to give sworn testimony but did not call any witnesses.

10. DW1, the Appellant herein, admitted that the chief recovered stolen goods from his house but explained that the Chief informed him that he wanted the motorcycle that the 2nd Accused had been riding. He stated that the Chief went to his big house and recovered many goods which were alleged to be stolen when he took the motorcycle. He claimed that the chief exchanged the goods that he had recovered from his house before calling the police to arrest him. He testified that he bought his power saw from an undisclosed person.

11. DW2, the 2nd Accused, denied knowledge of anything about the case and only stated that he was arrested from his place of work.

12. At the close of the case, the trial court found that the prosecution had proved its case against the accused persons and convicted them on the 1st and 2nd main counts of burglary and stealing and the 3rd count of stealing. They were both sentenced to serve 4 years imprisonment each for each limb of counts 1 and 2 and on the 3rd count, with a rider that the sentences were to run concurrently.

13. Dissatisfied with the trial court's decision, the Appellant instituted the present Appeal and listed the following grounds of appeal: -

    1. That the Learned Trial Magistrate erred in law and fact by convicting the Appellant on the basis of evidence that was full of notable discrepancies and contradictions in the evidence/ testimony of the Prosecution witnesses without analysing the same.

    2. That the Learned Trial Magistrate erred in law and fact by relying on hearsay evidence as a basis for conviction and sentence.

    3. That the Learned Trial Magistrate erred in law and fact by giving undue weight on the Prosecution evidence.

    4. That the Learned Trial Magistrate erred in law and fact in totally disregarding the testimony of the Appellant without giving any reason for the disregard.

    5. That the Learned Trial Magistrate erred in law and fact by not considering the Appellant's mitigation.

    6. That the conviction and sentence is irregular and bad in law.

7. That the Learned Trial Magistrate erred in law and fact by failing to give the Appellant the benefit of doubt in this case.

8. The Learned Trial Magistrate erred in law and fact by failing to notice that the Appellant had no legal representation in proceedings involving such a serious offence and advice the Appellant of getting legal representation at that juncture as a right enshrined in the *Constitution* 2010.

14. The appeal was canvassed by way of written submissions which I have considered. The main issues for my determination are: -

i. Whether the Charge was defective.

ii. Whether the Offences were proved to the required standard.

iii. Whether the sentence was legal and appropriate.

15. The Court of Appeal explained the duty of a first appellate court in *Kiilu & Another vs. Republic* [2005]1 KLR 174, as follows: -

> "It is not the function of a first appellate Court merely to scrutinize the evidence to see if there was some evidence to support the lower Court's findings and conclusions; Only then can it decide whether the Magistrate's findings should be supported. In doing so, it should make allowance for the fact that the trial Court has had the advantage of hearing and seeing the witnesses."

i. Whether the Charge was Defective

16. The Appellant submitted that the charges were wholesale in nature and therefore defective as they did not distinguish between the offence of house breaking, being in possession of stolen goods and having reason to believe that the items were stolen. According to the Appellant, the charges, as drafted, were defective thereby leading to a mistrial. The Respondent, on the other hand, submitted that the charges were properly drawn as the offences arose in the course of the same transaction.

17. Section 134 of the *Criminal Procedure Code*, Cap 75 provides as follows on the drafting of a charge: -

> Every Charge or Information shall contain, and shall be sufficient if it contains a statement or the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence charged.

18. In *Isaac Omambia v Republic* [1995] the Court of Appeal held: -

> "In this regard, it is pertinent to draw attention to the following provisions of S. 134 of the Criminal Procedure Code which makes particulars of a charge an integral part of the charge: Every charge or information shall contain, and shall be sufficient if it contains a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence."

19. Similarly, in *Sigilani v Republic* [2004] 2 KLR, 480, the Court of Appeal held as follows: -

> "The principle of the law governing charge sheets is that an accused should be charged with an offence known in law. The offence should be disclosed and stated in a clear and

unambiguous manner so that the accused may be able to plead to specific charge that he can understand. It will also enable the accused to prepare his defence." (emphasis mine)

20. In the instant case, the Appellant was charged on count 1 and 2 with the offence of burglary contrary to Section 304 (2) of the *Penal Code* and Stealing contrary to Section 279(b) of the *Penal Code* and on count 3 with the offence of stealing contrary to section 268 (1) as read with section 275 of the *Penal Code*.

21. It is trite that where a charge sheet reveals two offences known in law under the same charge, such that the ingredients of one of the offences can be subsumed into the other and where the particulars of that charge reveal the ingredients of one of the said offences, then such a defect can be cured in law under Section 382 of the *Criminal Procedure Code*. In instances where it is not possible for the ingredients of one offence to be subsumed into the other and further where the evidence does not disclose the ingredients of any of the offences, then such a defect cannot be cured in law. (See the Court of Appeal decision in *Paul Katana Njuguna v Republic* [2016] eKLR).

22. The question which arises is whether the charges levelled against the Appellant amounted to a duplex charge and if so, whether the same can be cured under Section 382 of the *Criminal Procedure Code* which provides thus: -

> "Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of an error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, unless the error, omission or irregularity has occasioned a failure of justice. Provided that in determining whether an error, omission or irregularity has occasioned a failure of justice the court shall have regard to the question whether the objection could and should have been raised at an earlier stage in the proceedings. It follows therefore that the court in determining whether a defect caused injustice has to have regard whether the objection should have been raised at an earlier stage in the proceedings."

23. In *Reuben Nyakango Mose & Another v Republic* [2013] eKLR the Court of Appeal held as follows: -

> "It will in any event be seen that the framing of the charge of burglary in the Criminal Procedure Code envisages that another offence may be committed in the course of burglary. That is why the relevant form is couched to include burglary and stealing in the same charge. The authorities we have visited and all relevant law envisage that because a thief who breaks into a dwelling house or a vessel will have had ulterior motives when he formed the intention to break into the house or vessel then what follows – this will ordinary but not necessarily be stealing – should be included in the burglary charge. There cannot therefore be duplicity when the offence of burglary and stealing are combined in the same charge."

24. Similarly, in *Njoka v R* [2001] KLR 175 the Court of Appeal held as follows with respect to the offence of burglary and stealing: -

> "The section does however create two offences rather than one offence. The first offence it creates is burglary and the second offence it creates is stealing from the house. Both offences, however, are usually committed in the course of one transaction and they carry one mens

rea. They are, also, usually laid as one offence in one count. The charge is then said to carry two limbs namely one for burglary and one for stealing from the house."

25. Guided by the decisions in the above cited cases, I find that the charge which contained both the offences of burglary and stealing was not duplex and therefore not defective in law. In the circumstances, the appellant cannot be said to have been prejudiced by the defect, if any, which in any case is not considered as fatal. That ground the trial amounted to a mistrial therefore fails.

ii. Whether the Offences were proved to the required standard.

26. Section 304 of the *Penal Code* stipulates as follows: -

304. Housebreaking and burglary

1. Any person who—
   a. breaks and enters any building, tent or vessel used as a human dwelling with intent to commit a felony therein; or
   b. having entered any building, tent or vessel used as a human dwelling with intent to commit a felony therein, or having committed a felony in any such building, tent or vessel, breaks out thereof, is guilty of the felony termed housebreaking and is liable to imprisonment for seven years.
2. If the offence is committed in the night, it is termed burglary, and the offender is liable to imprisonment for ten years.

27. The ingredients of the offence of burglary are similar to those of housebreaking save for the fact that burglary occurs at night. In *Anthony Kilonzo Mutuku v Republic* [2019] eKLR, Odunga J. (as he then was) outlined the ingredients of the offence as follows: -

> " In my view, section 304(1)(a) deals with three scenarios. The first scenario is where a person breaks and enters into a building, tent or vessel used as a human dwelling with intent to commit a felony therein. The ingredients here are that the person must break and enter into a building, tent or vessel. That building, tent or vessel must be one that is used as a human dwelling and the entry therein must be with the intention of committing a felony therein. Therefore, even without committing any offence therein, the offence thereunder is complete as long as the intent is proved. However, section 304(1)(b) applies where the person, being already inside the building, tent or vessel used as a human dwelling with intent to commit a felony therein, breaks out thereof. Therefore, once it is proved that a person was inside the building, tent or vessel used as a human dwelling and harbouring the intention of committing a felony, breaks out thereof, the offence is complete without necessarily committing an offence. The last scenario is still under section 304(1)(b) but here, the person, being already inside the building, tent or vessel used as a human dwelling with or without intent to commit a felony therein, does commit a felony therein and breaks out thereof. So under section 304(1)(a), the breaking is for purposes of gaining ingress while section 304(1)(b), the breaking is for purposes of egress."

28. In this case, it was the Prosecution's case, as presented by PW2 and PW3 was that their solar panel and sub-woofer respectively, were stolen on diverse dates during the night. PW4, on his part, did not specify or indicate if his power saw was stolen at night so as to satisfy the ingredient of time which requires that the housebreaking with an intent to commit a felony occurred at night. In this regard, I note that the charge sheet, with respect to the solar panel belonging to PW3, correctly indicates that

the Appellant was charged with the offence of stealing contrary to Section 268(1) as read with Section 275 of the *Penal Code*.

29. A close scrutiny of the evidence presented by the prosecution witnesses reveals that none of the witnesses testified that they saw the Appellant or his co-accused commit the offences of burglary by breaking and entering into the complainants' respective dwelling places as envisaged under Section 304 of the *Penal Code*. In other words, none of the witnesses stated that they saw the Appellant enter or exit any of the complainants' houses. It was however not disputed that the Appellant was found in possession of the stolen items and that he could not explain the source of the said items or provide proof of their purchase. Even though the complainant's in both the 1st and 2nd counts testified that their items were stolen at night, the only evidence that linked the Appellant to the offence was the fact that he was found in possession of the stolen items.

30. I therefore find that the prosecution did not prove the offence of Burglary against the Appellant to the required standard. I further find that the trial court's finding that the evidence presented by the prosecution was relevant to both charges of stealing and burglary was erroneous as the said court did not determine if the ingredients of each limb of the offence were proved independently. I therefore quash the conviction and set aside the sentence on the limbs of burglary in counts 1 and 2.

31. Turning to the issue of whether the second limb of stealing count 1 and 2, and on the 3rd count was proved to the required standards, I will refer to the definition of stealing as provided under Section 279 (b) of the *Penal Code* which states as follows: -

> 279. Stealing from the person; stealing goods in transit, etc.
>
> If the theft is committed under any of the circumstances following, that is to say—
>
> a. if the thing is stolen from the person of another;
>
> b. if the thing is stolen in a dwelling-house, and its value exceeds one hundred shillings, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;

32. Section 268 of the *Penal Code* further outlines the elements of the offence of stealing as follows: -

> 268. Definition of stealing
>
> 1. A person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person, other than the general or special owner thereof, any property, is said to steal that thing or property.
>
> 2. A person who takes anything capable of being stolen or who converts any property is deemed to do so fraudulently if he does so with any of the following intents, that is to say—
>
>   a. an intent permanently to deprive the general or special owner of the thing of it;
>
>   b. an intent to use the thing as a pledge or security;
>
>   c. an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;

d. an intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;

e. in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner;

and "special owner" includes any person who has any charge or lien upon the thing in question, or any right arising from or dependent upon holding possession of the thing in question.

3. When a thing stolen is converted, it is immaterial whether it is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession of the person who converts it; and it is also immaterial that the person who converts the thing in question is the holder of a power of attorney for the disposition of it, or is otherwise authorized to dispose of it.

4. When a thing converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the thing does not know who is the owner, and believes on reasonable grounds that the owner cannot be discovered.

5. A person shall not be deemed to take a thing unless he moves the thing or causes it to move.

33. *Black's Law Dictionary* 8th Edition defines stealing thus: -

> " To take (personal property) illegally with the intent to keep it unlawfully".

34. PW2, PW3 and PW4 testified that their items were stolen from their houses on various dates. The witnesses were later able to positively identify their stolen property among the stolen goods that had been recovered from the Appellant's custody/house. PW5, the Investigating Officer, produced an inventory of all the recovered items as P. Exh 10.

35. The burden fell on the Prosecution to prove that the items were capable of being stolen and that the owner(s) of the goods were deprived of possession or their use. This can be done through direct evidence where an eye witness sees a suspect entering the premises of another and making away with the said item that is capable of being stolen or where a person is found in possession of a stolen item under the doctrine of recent possession.

36. The principles governing this doctrine of recent possession were outlined in the case of *Arum v R* [2006] 1 KLR 233 as follows: -

> " 1. The property was found on the suspect
>
> 2. The property was positively identified by the complainant;
>
> 3. The property was stolen from the complainant; and
>
> 4. The property was recently stolen from the complainant."

37. In the present case, PW2 identified his solar panel (P. Exh1) which had been stolen on the night of 1st/2nd March 2020, PW3 identified his sub-woofer make GLD (P.Exh 3) which had been stolen on the night of 11th January 2018 while PW4 identified his power saw (P.Exh2) which had been stolen from

his house on 27th January 2018. They each produced receipts (Solar Panel Receipt and warranty card - P.Exh 4 and 5; GLD sub-woofer receipt and warranty card -P.Exh 8a and 8b; and Power saw receipt –P.Exh9) to prove ownership of the said items.

38. My finding is that the Prosecution witnesses not only positively identified their stolen property, they also proved that they were the rightful owners of the recovered items. They further demonstrated that they had reported the loss of the said items to the relevant authorities for necessary action. The issue for determination is whether the Appellant herein stole the said items.

39. It was not contested that the Appellant was found in possession of the stolen items. In *Isaac Ng'ang'a Kahiga alias Peter Ng'ang'a Kahiga v Republic* CA Criminal Appeal No. 272 of 2005 (Nyeri) (unreported), the Court of Appeal explained the implication being found in possession of stolen items and the doctrine of recent possession as follows: -

> "It is trite that before a court of law can rely on the doctrine of recent possession as a basis of conviction in a criminal case, the possession must be positively proved, In other words, there must be positive proof, first; that the property was found with the suspect, secondly that; that property is positively the property of the complainant, thirdly; that the property was stolen from the complainant; and lastly; that the property was recently stolen from the complainant ... in order to prove possession there must be acceptable evidence as to search of the suspect and recovery of the allegedly stolen property; and in our view any discredited evidence on the same cannot suffice no matter from how many witnesses."

40. In *Chaama Hassan Hasa v Republic* [1976] KLR 6, 10, it was held thus:-

> "[W]hat is generally referred to as the doctrine of recent possession, often expressed in this way: that where an accused person has been found in possession of property very recently stolen, in the absence of an explanation by him to account for his possession, a presumption arises that he was either the thief or a handler by way of receiving (through not by way of retaining). But this doctrine does not apply to all the cases. What has been laid down is that, where it is proved that property has been stolen and very soon after the stealing the accused has been found in possession of it, it is open to the tribunal of fact to find him guilty of stealing, or of handling it by way of receiving: see *R v Seymour* [1954] 38 Cr App Rep. 68;"

41. As I have already stated in this judgment, the Appellant herein admitted that several stolen items were recovered from his house. In his defence, he alleged that he got the items from his friend the co-accused and further, that he had purchased the power saw from an undisclosed person. The Appellant did not produce any proof of purchase of the power saw. His co-accused denied any knowledge of the recovered items. PW1's testified that the Appellant attempted to escape from his house at the time the stolen goods were discovered and had to be restrained by village elders. My view is that the Appellant's conduct at the time of the discovery of the items in his house point to a party who had a lot to hide in as far as the source and ownership of the said items is concerned.

42. Having regard to the findings and observations that I have made in this judgment and having established that the Appellant was not only found in possession of stolen items but also failed to offer any reasonable explanation or proof of ownership, I find that the Prosecution proved the offence of stealing beyond reasonable.

43. I therefore find that the trial court's conviction for the offence of stealing was safe and hereby uphold it.

iii Sentence

44. Section 275 of the *Penal Code* provides thus: -

    275. General punishment for theft

    Any person who steals anything capable of being stolen is guilty of the felony termed theft and is liable, unless owing to the circumstances of the theft or the nature of the thing stolen some other punishment is provided, to imprisonment for three years.

45. In this case, the trial court sentenced the Appellant to serve 4 years imprisonment for each count of stealing with a rider that the sentences were to run concurrently.

46. The circumstances under which an appellate court may interfere with the sentence meted by a trial court were discussed in the case of *Ogolla s/o Owuor v R* [1954] EACA 270 where the Court of Appeal stated as follows: -

> " The Court does not alter a sentence unless the trial Judge has acted upon wrong principles or overlooked some material factors". To this, we would add a third criterion namely, "that the sentence is manifestly excessive in view of the circumstances of the case (R v Shershowsky [1912] CCA 28TLR 263)."

47. In the instant case, it is evident that the sentence meted by the trial court exceeded the limits provided by the law. Consequently, I set aside the 4 years' imprisonment sentence and substitute it a sentence of 3 years' imprisonment for each count of stealing.

48. In conclusion, I find that the appeal is merited, albeit partly only in respect to conviction for burglary and the sentence period. For avoidance of doubt, the Appellant's conviction with respect to the two counts of burglary contrary to Section 304 (2) of the *Penal Code* is hereby quashed and the Appellant is acquitted on the same.

49. The conviction with respect to the second limb of Counts 1 and 2 together with Count 3 for the offence of stealing is hereby upheld. The Appellant stands convicted on the offence of stealing contrary to Section 279 (b) of the *Penal Code*. The sentence of 4 years' imprisonment for each count is set aside and is substituted with a sentence of 3 years for each count of stealing. The sentences shall run concurrently.

50. Orders accordingly.

JUDGMENT DATED, SIGNED AND DELIVERED AT NYAMIRA VIA MICROSOFT TEAMS THIS 14TH DAY OF MARCH 2024.

W. A. OKWANY

JUDGE