



**Republic v Njoroge (Criminal Case 113 of 2013)
[2023] KEHC 2214 (KLR) (Crim) (20 March 2023) (Order)**

Neutral citation: [2023] KEHC 2214 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 113 OF 2013
JM BWONWONG'A, J
MARCH 20, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

HARRISON KAMAU NJOROGE ACCUSED

ORDER

1. It is only those who are convicted of an offence that are allowed to appeal to a higher court in terms of article 50 (2) (q) of the 2010 *Constitution of Kenya*. And even then the appeal has to follow the prescribed law.
2. Furthermore, under Section 379 of the *Criminal Procedure Code* (Cap 75) Laws of Kenya, it is only those who have been convicted by the High Court in its trial capacity, that have a right of appeal to the Court of Appeal.
3. The accused person is not a convicted person. Therefore, he has no right of appeal. He was only found guilty of murder but insane under Section 166 *Criminal Procedure Code*.
4. There is no right of appeal against the order of this court that found the guilty of murder but insane. And I therefore do not agree with the prosecutor (Ms Dela) and Mr. Amutallah for the accused that the accused has a right of appeal.
5. I therefore reject the application of the accused to appeal to Court of Appeal.

ORDER SIGNED, DATED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 20TH DAY OF MARCH 2023.

J M BWONWONG'A



JUDGE

In the presence of-

Mr. Kinyua: Court Assistant

Ms Peris Maina for the Republic

Mr. Amutallah for the accused.

The accused in person.

