



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**CR. REVISION NO. 910 OF 2018**

**WILLY KIHARA NJOKI.....REPUBLIC**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. In a revision application, a High Court would ordinarily call for the magistrate's court file for perusal. But this is an application in which facts are not opposed by any party.
2. In my view too, the calling of the trial court file will further derail the course of an expedient disposal of the trial. At the same time, a party cannot be compelled to proceed with a matter in which it is unable to read the proceedings.
3. In as much as the trial is old, a denial of typed proceedings is tantamount to a violation of a Constitutional right to an accused by failing to provide him/her with sufficient facilities required to enable him to prepare to conduct his/her defence.
4. In this regard, this is an application that is merited. What the trial court should do is to fast-track the hearing of the proceedings.
5. Accordingly, I allow the application. I set aside the order of Hon. Ooko, P.M issued on 15/11/2018 ordering that the 2<sup>nd</sup> accused in Cr. Case No. 429 of 2011 be furnished with hand written proceedings. I substitute it with an order that the 2<sup>nd</sup> accused be furnished with certified copies of the typed proceedings in the case. The proceedings shall be typed on a priority basis. The trial court shall set the period within which the typing shall be done and fast track the same through mentioning the matter.
6. This ruling be served on the trial court for compliance.

**Dated and delivered at Nairobi This 11<sup>th</sup> Day of December, 2018.**

**G.W.NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

1. Ruiru for the Applicant
2. M/s Atina for the Respondent.