



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT KISUMU**  
**(CORAM: KWACH, J.A. (IN CHAMBERS))**  
**CRIMINAL APPLICATION NO. NAI. 5 OF 1999**

**BETWEEN**

**MOSES SHIVACHI SHIKALI ..... APPLICANT**  
**AND**  
**REPUBLIC ..... RESPONDENT**

**(Application for Leave to appeal out time from a judgment of  
the High Court of Kenya at Kakamega (Mr. Justice Tanui)  
dated 3rd April, 1998**

**in**  
**H.C.CR.C. NO. 269 OF 1997)**

\*\*\*\*\*

**R U L I N G**

As the appeal was heard and determined in the absence of the applicant he has a legitimate grievance. His constitutional right a fair and impartial trial was violated. Accordingly, I allow this application and extend the time for filing an appeal by thirty days from today.

**Dated and delivered at Kisumu this 18th day of March, 1999.**

**R. O. KWACH**

-----  
**JUDGE OF APPEAL**

**I certify that this is a true copy of the original.**  
**DEPUTY REGISTRAR**