

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: BOSIRE AG. JA (IN CHAMBERS))

CRIMINAL APPLICATION NO.NAI 1 OF 1997

BETWEEN

REPUBLIC.....APPLICANT

AND

PETER KALELI MULWA.....RESPONDENT

**(Application for extension of time to serve notice of
appeal in an intended appeal from a conviction,
judgment, of the High Court of Kenya at Nairobi (Mr
Justice Oguk) dated 24th June 1996**

in

H.C.CR.APPEAL NO.920 of 1995

RULING

The Learned Assistant D.P.P. applies that I disqualify myself from hearing this application, in his view because he does not think justice will be seen to have been done whichever way the decision goes. His reason is that I earlier handled another application under rule 4 of the Rules of Court from the State Law Office concerning the same matter and exercised my discretion against the state. In effect he thinks that I may be inclined to decide this one in similar manner. Mr Owino Opiyo does not think the application is merited this being a different application from the earlier one. I have considered this matter and to my mind I have no property in any of the matters I handle in exercise of my judicial powers. However, in view of the serious veiled accusation against me, and on the basis that there are several colleagues here who can hear the application I feel constrained to give way, adjourn the application to be relisted before any other Judge of this court on a date convenient to the court and the parties. Today's costs to abide the outcome of the application.

Dated and at Nairobi this 3rd day of November, 1997.

S.E.O. BOSIRE

.....

AG. JUDGE OF APPEAL

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

DEPUTY REGISTRAR