



**IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: KWACH, OMOLO & AKIWUMI, JJ.A.)
CRIMINAL APPLICATION NO. NAI. 2 OF 1993**

BETWEEN

ROBERT THUMI GITAUAPPLICANT

AND

REPUBLICREPUBLIC

(Appeal from a judgment of the High Court of Kenya at
Nairobi
(Mbaluto, J.) dated 18th March, 1993
in
H.C.CR. A. NO. 1382 OF 1992)

RULING OF THE COURT:

This is a reference to the Full Court under rule 54 of the Court of Appeal Rules from the decision of Muli J.A. sitting as a single Judge whereby he dismissed an application by Robert Thumi Gitau (the applicant) for leave to appeal out of time.

The decision against which the applicant wishes to appeal was given on 18th March, 1992 by Mbaluto J. who dismissed his appeal against both conviction and sentence on a charge of conveying suspected stolen property for which he was sentenced to 3 years imprisonment.

The application for leave to appeal out of time was not made until 2nd April, 1993, more than one year after the dismissal of the applicant's appeal by the superior court. The reason given for the delay was that the applicant was ignorant about the procedures of mounting an appeal to this Court.

It has not been shown to our satisfaction that the Judge exercised his discretion wrongly because on the material before us we are satisfied that there has been an inordinate delay which has not been explained. In the result this reference fails and it is dismissed.

Dated and delivered at Nairobi this 16th day of July, 1996.

R.O. KWACH

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JUDGE OF APPEAL

R.S.C. OMOLO

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JUDGE OF APPEAL

A.M. AKIWUMI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR