

Lwengele & another v Staff Counsel

REPUBLIC OF KENYA

Court of Appeal, at Kisumu March 27, 1990

Nyarangi, Gicheru JJA & Chesoni Ag JA

Criminal Appeal No 23 of 1986

**On March 27, 1990, Nyarangi, Gicheru JJA & Chesoni Ag JA delivered the following
Judgment.**

The question which arises in this appeal is, a short one, and we think an easy one.

The record of appeal before us is incomplete and, having regard to our rules, defective. The summing up notes are not included in the record of appeal, and section 322 (1) of the Criminal Procedure Code was not complied with.

For the foregoing purpose interest of justice, it is desirable that the case be re-retried before some judge. It follows that the convictions are queried and the sentences set aside.

We are aware that the appellant has been in custody since April 1984. For that reason, we respectfully suggest to the Superior Court concerned to give the matter of the re-trial highest priority.

In the meantime the appellants shall be kept in custody until the date of the re-trial.

Orders accordingly.