Keino v Republic (Criminal Appeal 203 of 2020)
[2024] KECA 710 (KLR) (21 June 2024) (Judgment)

Neutral citation: [2024] KECA 710 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT ELDORET

CRIMINAL APPEAL 203 OF 2020

FA OCHIENG, LA ACHODE & WK KORIR, JJA

JUNE 21, 2024

BETWEEN

CLEOPHAS KIPKETER KEINO ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

(An Appeal from the Judgment of the High Court of Kenya at Eldoret (Hon. H. Omondi, J.) delivered and dated 21st February 2019 in HCCR No. 20 of 2008)

JUDGMENT

1. The appellant, Cleophas Kipketer Keino, was arraigned before the High Court with 2 counts of the offence of murder contrary to section 203 as read with 204 of the Penal Code. In the 1st count, the information stated that on 28th April 2008, at Kibwareng' Location in the defunct Nandi South District within the then Rift Valley Province, the appellant murdered AK. For the 2nd count, the information stated that on the date, time and place indicated in the 1st count, the appellant murdered EK. The appellant denied the charges and at the conclusion of the trial he was found guilty on both counts. He was sentenced to suffer death on the 1st count with the sentencing in respect to the 2nd count being held in abeyance. He has now appealed to this Court against the conviction and sentence.

2. Upon perusal of the appellant's memorandum of appeal as well as his supplementary memorandum of appeal, we condense the appellant's grounds of appeal as follows: that malice aforethought was not proved; that he was not properly identified as the murderer; that the evidence was marred with discrepancies; that the case was poorly investigated; that the judgment did not meet the parameters set in section 169(1) of the Criminal Procedure Code; and that his mitigation was not considered.

3. Seven witnesses testified for the prosecution starting with Monica Mutai (PW1) who recalled that on 28th April 2008 while she was at her home, the appellant approached wielding a panga. The appellant proceeded to cut EK (E) with the panga prompting her to drop AK (A) and flee the scene. She identified

the panga that the appellant was wielding describing it as one which had a rubber handle. She stated that she did not see the appellant cut Abel but learned later that he had also cut him. Although she denied being in a sexual relationship with the appellant, she admitted having assaulted the appellant's wife a month earlier after she accused her (PW1) of having an affair with the appellant. PW1's testimony was that the dispute between her and the appellant's wife had been resolved by elders.

4. The testimony of Eunice Chepngetich Magut (PW2) was to the effect that on the material day she was at the home of PW1 in the company of PW3 and PW1's two children when the appellant suddenly emerged from a nearby maize plantation and cut E. It was PW2's evidence that PW1 dropped Abel and took off. She stated that she witnessed the appellant step on Abel before cutting him on the neck. It was also her testimony that the appellant then set PW1's house on fire and only took off from the scene with the panga when PW4 arrived. She ran off from the scene to a neighbouring home.

5. Ruth Chesang (PW3) confirmed the testimony of PW2 that they were indeed at PW1's home with PW1 and her children when the appellant emerged from a maize plantation and cut Emmanuel with a panga. PW3 testified that she saw PW1 drop Abel and take off from the scene. It was then that the witness ran away from the scene but not before seeing the appellant set the house of PW1 on fire. She, however, did not see the appellant kill A. She told the court that the appellant used a panga with a rubber handle.

6. On the material day, Julius Kiprono Rotich (PW4) heard screams emanating from the home of PW1 who was his neighbour. He proceeded to his father's house where PW1 found him and beseeched him to go save her child. He proceeded to the home of PW1 where upon seeing him the appellant took off brandishing a panga that had a rubber handle. He noticed that Abel was dead with a cut on the side of his neck. He was then informed that E was badly wounded with a cut on the shoulder. He, together with other Good Samaritans, took E to Wareng Dispensary from where he was transferred to Kapsabet before ending up in Eldoret. On returning home, he found that the appellant had been arrested.

7. Nelson Bett (PW5) identified the body of E for postmortem purposes at Moi Teaching and Referral Hospital in Eldoret on 2nd May 2008. He noticed injuries on the left shoulder.

8. Dr. David Chumba (PW6) performed postmortem on the body of E, a 7-year old boy on 2nd May 2008. The body was identified to him by PW5 and Stanley Too. He observed that the deceased had a stitched cut wound on the left shoulder which was 6cm long with a fractured clavicle. He also observed that the deceased had blunt trauma on the abdomen and a laceration on the left kidney. He concluded that the deceased died as a result of acute renal failure due to blunt trauma to the kidney. He filled a postmortem report which he produced as an exhibit.

9. Dennis Kipchumba Mutai (PW7) identified the body of A for postmortem purposes at Nandi Hills Hospital on 2nd May 2008.

10. When the appellant was placed on his defence, he denied the charges and stated that on the material day he was invited by Felix Kiplagat for local brew at his place. At the home of Felix, they were joined by his lover (PW1) who bought him busaa before inviting him to pass by her home at 1.30 pm. After leaving Felix's home, he passed by the house of PW1 where he found her with the children. She was in a foul mood. A quarrel ensued and they started fighting. In the process of cutting him with a panga, PW1 also cut Emmanuel. He took off to his elder wife's house only to later learn that it was being claimed that he had killed a child.

11. In her judgment dated 21st February 2019 H.A. Omondi J. (as she then was) found that the ingredients of the offence of murder had been proved against the appellant on both counts. The learned Judge held that even though the murder weapon was identified but not produced, its non-production was

not fatal to the prosecution case as the witnesses vividly described what transpired. She also dismissed the appellant's defence of provocation and intoxication.

12. This appeal came for virtual hearing before us on 6th February 2024. Learned counsel Mr. Sonkule appeared for the appellant while learned prosecution counsel Mr. Rop represented the respondent. Counsel for the parties had filed written submissions which they opted to wholly rely upon.

13. Mr. Sonkule commenced the submissions dated 14th September 2023 by referring to the decisions in Okeno v. Republic [1972] EA 32 and Jonas Akuno O'Kubasu v. R. (2000) eKLR as a reminder of our all-encompassing jurisdiction on a first appeal. Turning to the merits of the appeal, counsel submitted that the element of malice aforethought was not established by any of the prosecution witnesses. Relying on the case of Nzuki v. Republic [1993] KLR 171, counsel asserted that a conviction for the offence of murder can only arise where the prosecution proves motive on the part of an accused person. Counsel cited Dama Kazungu & 6 others v. Republic [2022] eKLR in support of the proposition that there needs to be a link between the appellant and actions that caused the death. According to counsel, such a nexus was not established in the appellant's case. It was also counsel's submission that PW1, PW2 and PW3 were not truthful witnesses and the trial Court ought to have disregarded their evidence.

14. Mr. Sonkule further submitted that the case against the appellant was not proved as it was founded on shoddy investigations. According to counsel, evidence of poor investigations was supported by the fact that despite the prosecution informing the trial Court that it had lined up 10 witnesses to testify, it ended calling fewer witnesses. Still pursuing this ground of appeal, counsel pointed out that the investigating officer was not called to testify. According to counsel, the trial Court ought to have found that the evidence was inadequate owing to the missing witnesses, and the trial Court ought to have given the benefit of doubt to the appellant.

15. Turning to another ground of appeal, counsel argued that the judgment of the trial Court did not comply with section 169(1) of the Criminal Procedure Code as the learned Judge did not identify the issues that arose for determination in the judgment.

16. Finally, concerning the issue of the sentence, counsel submitted that were we to uphold the conviction, then we should interfere with the sentence in order to allow the appellant to enjoy the current pragmatic judicial intervention on sentencing.

17. Like counsel for the appellant, learned counsel Mr. Rop for the respondent through the submissions dated 2nd November 2023 prepared by Senior Prosecution Counsel, Ms. Emma Okok, set the tone of the submissions by highlighting the mandate of this Court on a first appeal. Turning to the grounds of the appeal, counsel recounted the evidence on record and urged that the offence of murder was proved against the appellant. Counsel rejected the assertion by counsel for the appellant that the prosecution did not prove motive and relied on Robert Onchiri Ogeto v. R. [2004] eKLR to argue that the prosecution was only required to prove malice aforethought as defined in section 206 of the Penal Code and not motive.

18. Regarding the appellant's assertion that failure to call all the witnesses was fatal to the prosecution case, counsel urged that failure to call the investigating officer was not fatal to the prosecution's case. To buttress this point, counsel relied on S.C. v. Republic [2018] eKLR where it was held that the failure to call the investigating officer is not fatal to the prosecution case unless such evidence is key in linking the accused person to the crime. Still in pursuit of this point, counsel submitted that the evidence on record proved the offence of murder and the discretion of calling the witnesses deemed necessary to prove the offence charged lay with the prosecution and no one else.

19. In response to the appellant's claim that the evidence of the prosecution witnesses was contradictory and inconsistent, counsel relied on Richard Munene v. R. [2018] eKLR to urge that any trivial discrepancies in the testimony of the witnesses, as may have been the case in this matter, are not detrimental to the prosecution case.

20. As for the alleged failure by the trial Judge to comply with section 169(1) of the Criminal Procedure Code, counsel referred to several paragraphs of the judgment of the trial Court to demonstrate that the learned Judge clearly identified the issues for determination and analyzed the evidence before reaching her conclusions. Counsel therefore urged us to dismiss this ground of appeal. In the alternative, counsel submitted that should we find that the judgment did not meet the standards set in section 169(1) of the Criminal Procedure Code, we should nevertheless uphold it based on the holding in Hawaga Joseph Anuanga Ondiasa v. R. [2001] eKLR that even where a judgment does not comply with the stated provision, such non-compliance is not necessarily fatal to the case.

21. Finally, on sentence, counsel submitted that the same was handed down in compliance with the law and urged us not interfere with it.

22. This being a first appeal, the jurisdiction donated to us by section 379(1) of the Criminal Procedure Code and Rule 31(1)(a) of the Court of Appeal Rules, 2022 encompass both matters of law and fact, or of mixed law and fact. However, in discharging our mandate we must remember that unlike the trial Court, we have not had the benefit of hearing the witnesses and observing their demeanour and we should therefore give allowance to this limitation. See the holding in Chiragu & Another v. Republic [2021] KECA 342 (KLR) that:

> " However, before we grapple with grounds of appeal aforesaid, we must remind ourselves that this being a first appeal from the judgment of the High Court, by dint of section 379 of the CPC and guidance provided in the famous case of Okeno V. R. [1972] EA 32, we are expected to subject the entire evidence tendered in the trial court to fresh and exhaustive examination so as to reach our own independent conclusions as to the guilt or otherwise of the appellants. In doing so, we must however give due allowance to the fact that we neither saw and observed the witnesses as they testified. Accordingly, we must give way to the findings of facts and demeanor of witnesses by the trial court."

23. Conscious of this mandate, we have identified two issues for our determination namely whether the offence of murder was proved against the appellant and whether the failure to call the investigating officer was detrimental to the prosecution's case. If we find the appellant's conviction to be safe, we will then consider whether the appellant has made a case for our interference with the sentence.

24. We will address the issues surrounding conviction concurrently.

The appellant was charged with two counts of murder contrary to section 203 as read with 204 of the Penal Code. The ingredients of the offence of murder are proof of the fact of death, proof that the accused person was involved in the death either by omission or commission, and finally, proof that the accused person had the requisite intention (malice aforethought) to cause death or grievous harm. The ingredients of the charge of murder were highlighted in Roba Galma Wario v. Republic [2015] eKLR thus:

> "For the conviction of murder to be sustained, it is imperative to prove that the death of the deceased was caused by the appellant; and that he had the required malice aforethought.

Without malice aforethought, the appellant would be guilty of manslaughter, as it would mean the death of the deceased during the brawl was not intentional."

25. In this case, there were two deaths, that of Abel and Emmanuel.

The prosecution was required to prove each count beyond reasonable doubt. In the case of Abel, there was no expert evidence to ascertain the cause of death. However, from the record, PW2 testified that he saw the appellant step on the deceased and cut him with a panga. PW4 on arriving at the scene witnessed the lifeless body of Abel. PW7 on his part testified that he identified the body of Abel for postmortem purposes and actually witnessed postmortem being carried out on the body. In any event, the fact and the cause of Abel's death was not contested by the appellant. Based on the evidence on record it is therefore safe for us to infer that Abel died as a result of injuries sustained on the material day.

26. The other death was that of E. In his case, PW5 identified his body for postmortem. PW6 was the pathologist who conducted the postmortem on the deceased. PW6 concluded that the boy died as a result of acute renal failure due to blunt trauma to the kidney. We therefore find that the fact and cause of death in the two counts was sufficiently established.

27. The question that follows is whether the appellant had a hand in the killing of the two boys. PW1, PW2 and PW3 all testified that they were at the home of PW1 when the appellant arrived armed with a panga. Whereas the three witnesses saw the appellant cut E, PW1 did not witness the appellant attack A. However, the witnesses all testified that upon seeing the appellant assault E, PW1 dropped A on the ground and fled the scene. It was further the evidence of PW2 and PW3 that they witnessed the appellant assault Abel by stepping on him and then cutting him with the panga he had. PW4 who went to the scene immediately he was alerted of what was happening by PW1 saw the appellant leave with a panga. The evidence not only places the appellant at the scene of the crime but also links him to the assault that led to the deaths of the two minors.

28. In his defence, the appellant admitted being at the scene but testified that it was PW1 who had the panga and cut E as she tried to cut him (appellant). However, the evidence of the appellant did not dislodge the corroborated version of PW1, PW2 and PW3. Even if the appellant's version of the events were to be believed, and this is not plausible, it does not disscount the testimony of PW4 that the appellant fled the scene with a panga upon his arrival. The evidence of PW1, PW2, PW3 and PW4 not only placed the appellant at the scene of crime but painted him as the aggressor as he was the only person armed with the panga. If the panga was not his, as he claimed in his defence, then there was no reason for him to leave the scene with it.

29. We now proceed to address the effect of the failure by the prosecution to produce the murder weapon as an exhibit. The starting point is to note that the record shows that although the panga was identified by the witnesses, it was never produced as an exhibit. This failure was, however, not fatal to the prosecution's case. As has been stated by this Court again and again, where there exists sufficient evidence for a court to believe that a certain type of weapon was used, the failure to produce the weapon is not fatal to the prosecution's case. Addressing the effect of the failure by the prosecution to produce the murder weapon, the Court in Kyalo Kalani v. Republic [2013] eKLR, cited with approval the earlier holding in Karani v. Republic [2010] 1KLR 73 that:

> "The offence as charged could have been proved even if the dangerous weapon was not produced as an exhibit as indeed happens in several cases where the weapon is not recovered. So long as the court believes, on evidence before it, that such a weapon existed at the time of the offence, the court may still enter and has been entering conviction without the weapon being produced as exhibit."

30. Similarly, in *Ramadhan Kombe v. Republic, CRA 168 of 2002*, the Court held that:

> "We now deal with Mr. Jengo's other ground of appeal. He complained that the murder weapon was not produced. In the matter before the trial court and before us the cause of the deaths herein was patently obvious. The weapon used was clearly a panga.
>
> There is no other version of how the deceased were killed, nor by whom. Moreover the counsel for the appellant, as the record shows, told the trial court that he had no questions to ask Dr. Mandalya (PW10), the witness who produced the postmortem reports. The failure by the prosecution to recover the murder weapon was not fatal to the case for the prosecution nor did the failure to produce it prejudice the appellant's defence."

31. It therefore follows that all that is required of us is to assess the evidence on record with a view of ascertaining whether it sufficiently discloses the nature of weapon that was used. In this case, PW1, PW2 and PW3 were all at the scene prior to the incident. They all witnessed the appellant arrive holding a panga. PW2 and PW3 saw the appellant cut E with the same panga. PW4 arrived at the scene in time to see the appellant fleeing with a panga. He also noticed that Abel had a cut on the side of his neck. The witnesses who saw the panga stated that it had a rubber handle. PW6 who conducted the postmortem on E saw a 6 cm long cut wound as well as a sewn shoulder with a broken cervical. With this kind of evidence, we, just like the trial Court, have no doubt that the weapon used to kill the children was a panga. The panga, though not produced, was identified by the witnesses in Court. The failure to produce the murder weapon was therefore not fatal to the prosecution's case.

32. Still on the challenge against conviction, the appellant submitted that the failure to call the investigation officer to testify was fatal to the prosecution case as it meant that the case against him had not been proved. On this question, we wish to stress that it is expected of the prosecution in a criminal case to call the investigating officer as a witness to shed light on his or her role and how he or she concluded that the accused person was culpable for the charged offence. Ordinarily, the investigating officer is the witness who neatly ties the knots interlinking the prosecution's evidence and, in the process dismantle the accused person's defence. Sometimes, the failure to call the investigating officer can be fatal to the prosecution's case because the investigator paints the whole picture and assists the court in making sense of the disparate information placed on record by different witnesses. However, as this Court has previously held, the failure to call the investigating officer does not automatically become fatal to the prosecution's case. In that regard, it was stated in Harward Shikanga Alias Kadogo & Another v. Republic [2008] eKLR that:

> "We think that in all cases it would be good practice which prosecuting authorities ought to comply with, but the mere failure to comply with it, i.e. calling an investigating officer, cannot automatically result in an acquittal. Each case would have to be considered on its own circumstances in order to determine the effect of such a failure on the entire case for the prosecution."

33. Similarly, in Reuben Gitonga Nderitu v. Republic [2009] eKLR, the Court held that:

> "Secondly, with regard to the complaint that the investigating officer was not called to testify is also neither here nor there. It is not mandatory that he be called, unless there is an allegation that he would have said something adverse to the prosecution case."

34. In the present case, the evidence on record was sufficient to prove the appellant's involvement in the murder of the two boys. Maybe the only additional thing the investigating officer would have done

was to produce the murder weapon. However, as we have already concluded, the failure to produce the panga was not fatal to the prosecution's case. The challenge to the conviction on the grounds that the murder weapon was not produced and that the investigating officer did not testify therefore fails.

35. Another ground upon which the appellant attacked the validity of his conviction was the assertion that the evidence of the prosecution witnesses was marred with contradictions. Counsel singled out the contradictions in the testimony of PW1, PW2 and PW3 with respect to the question as to whether PW1 sold alcohol at her home. In our view, this alleged contradiction does not upset the firm foundation of the prosecution's case that it was the appellant and no one else who inflicted the fatal injuries on the two boys. We must focus on the issue at hand, being the death of two children in the hands of a human being and whether or not PW1 sold illicit brew becomes irrelevant in light of the firm and consistent testimony as to the hand of the person who took away the lives of those children. We also decline the invite by the counsel for the appellant to enter the arena of assessing witness demeanour. Assessment of the demeanour of witnesses is best left to the eyes and ears of the trial judge for it is only the judge who heard and saw the witnesses testify who can make any useful assessment as to whether a witness can be believed or not. Although the credibility of a witness can be discerned from the record and may indeed be used as a ground by an appellate court for determining an appeal, allowance should be given to the fact that the trial judge was best placed to make decisions on the integrity of the witnesses.

36. In conclusion, we find that the evidence on record pointed to no one else but the appellant as the person who viciously assaulted the children leading to their deaths. Nevertheless, the question remains as to whether the appellant had malice aforethought.

37. The appellant's contention is that malice aforethought was not established by the prosecution. In support of this position, his counsel argued that the prosecution did not establish any motive on the part of the appellant that would warrant the insinuation of malice on his part. The argument fostered by counsel for the appellant is, in our view, not supported by the law. In stating so, we refer to section 9(3) of the Penal Code which provides that:

> " Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility."

38. From the foregoing provision, it is clear that motive, unless clearly required by the law, is an immaterial factor in proving one's criminal responsibility. In the case before us, the evidence directly linked the appellant to the crime and his motive for committing the offences is immaterial as long as the deaths were not sanctioned by the law. What was required of the prosecution to establish in order to secure a conviction for murder was that the appellant had malice aforethought. What constitutes malice aforethought is found in section 206 of the Penal Code which states that:

> " Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—
>
> a. an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;
>
> b. knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;

c. an intent to commit a felony;

d. an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony."

39. The circumstances surrounding each case is what will guide the court in determining whether an accused person had malice aforethought when he or she killed the deceased person. Thus, in Bonaya Tutu Ipu & another v. Republic [2015] eKLR it was stated that:

> "It is in rare circumstances that the intention to cause death is proved by direct evidence. More frequently, that intention is established by or inferred from the surrounding circumstances. In the persuasive decision of CHESAKIT V. UGANDA, CR. APP. NO. 95 OF 2004, the Court of Appeal of Uganda stated that in determining in a charge of murder whether malice aforethought has been proved, the court must take into account factors such as the part of the body injured, the type of weapon used, if any, the type of injuries inflicted upon the deceased and the subsequent conduct of the accused person."

40. In the instant appeal, the appellant had a panga which he used to attack the two children. He inflicted a 6 cm cut on Emmanuel at the collar bone. As for Abel, he had an injury on his neck. The appellant is said to have appeared from the maize plantation and unprovoked instantly attacked the two minors. None of the adults who were with the minors was armed. In our view, the appellant's goal, which he ultimately achieved, was to end the lives of the children. He knew or ought to have known that cutting a child with a panga would result in death or grievous harm. Additionally, the sites of the body that were cut were delicate and death was a foreseeable outcome. We therefore find no merit on the appellant's assertion that malice aforethought was not proved. Therefore, we reach the same conclusion with the trial Court that the evidence adduced was enough to result in the appellant's conviction. Consequently, we find the appeal against conviction to be without merit and dismiss it.

41. The remaining issue for our consideration is the appeal against sentence. The appellant was handed the death penalty in count 1 while the sentence in respect to count 2 was held in abeyance. Ordinarily, sentence is a matter that falls within the discretion of the trial court. An appellate court must therefore approach the issue of sentence with deference and should only interfere where the sentence is manifestly excessive or where the trial court overlooked some material factor, or considered some wrong material, or acted on a wrong principle. This statement of law is found in Bernard Kimani Gacheru v. Republic [2002] eKLR where it was held that:

> " It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account, some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already stated is shown to exist."

42. We have looked at the sentencing proceedings and we find that the trial Court considered the appellant's mitigation and time spent in prison prior to handing down the penalty. The sentence was imposed post the decision of the Supreme Court in Francis Karioko Muruatetu & Another v. Republic [2017] eKLR in which the mandatory nature of the death sentence under section 204 of the

Penal Code was declared unconstitutional. However, much as the appellant took away the lives of two innocent children, we are persuaded that there is room for us to consider as to whether the sentence was manifestly excessive in the circumstances – see Bernard Kimani Gacheru.

43. In passing sentence, a court is called upon to take into account the mitigating and aggravating circumstances. The period spent in pre-sentence custody also matters. In the matter before us, the appellant indicated remorse in his mitigation. He had been in remand for 11 years prior to his sentencing. The aggravating factors were that not one but two innocent lives were lost by the reckless and unprovoked actions of the appellant. The incident will forever be etched in the mother's memory. The circumstances therefore called for a stiff custodial sentence. An appropriate sentence would therefore be imprisonment for 35 years in respect of each of the deaths. The appellant having committed the offences in a single transaction, the sentences will run concurrently. Consequently, the death sentence imposed in regard to count 1 is set aside.

44. The upshot of the foregoing is that the appeal against conviction is dismissed for lack of merit. The appeal against sentence partially succeeds and the death sentence is set aside and substituted with imprisonment for 35 years on each of the two counts. The sentences shall run concurrently. The term shall, according to the records held by the prison authorities, comply with the proviso to section 333(2) of the Criminal Procedure Code.

45. It is so ordered.

DATED AND DELIVERED AT NAKURU THIS 21ST DAY OF JUNE, 2024

F. OCHIENG

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JUDGE OF APPEAL

L. ACHODE

.....

JUDGE OF APPEAL

W. KORIR

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR