



**Ngaruri v Republic (Criminal Application E084 of 2024)  
[2024] KECA 1703 (KLR) (22 November 2024) (Ruling)**

Neutral citation: [2024] KECA 1703 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CRIMINAL APPLICATION E084 OF 2024  
S OLE KANTAI, JW LESSIT & A ALI-ARONI, JJA  
NOVEMBER 22, 2024**

**BETWEEN**

**SIMON GITONGA NGARURI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An appeal from the Judgment of the High Court at Embu (F. Muchemi, J.)  
delivered on 21st November, 2016 in H. C. Criminal Case No. 2 of 2012.)*

**RULING**

1. The applicant, Simon Gitonga Ngaruri has applied by Motion in the main that we be pleased to reinstate Criminal Appeal No. 98 of 2016 which he had previously withdrawn. He also prays to be exempted from paying Court fees as he is a pauper. In grounds in support of the application and in his supporting affidavit, he says that he was dissatisfied with and was aggrieved by the decision of the trial court made on 21<sup>st</sup> November, 2016, and he filed the said appeal against both conviction and sentence; that he withdrew the appeal on 19<sup>th</sup> October, 2022 before a bench of this Court;

“That the Appeal was withdrawn under the influence/Advise of the probonal (sic) advocate that was assigned to me to help in my Appeal matter. ...”

1. that after legal consultations he has decided to reinstate the appeal.
2. The application was served and when it came up for hearing today learned counsel Mr. Naulikha for Office of Director of Public Prosecution indicated to us that he was not opposing the same.
3. We have considered the application.
4. The applicant says that he withdrew the appeal upon advise from his lawyer assigned to him by the State. It is possible that he was advised to do so in order to seek relief elsewhere, but such relief has not



been obtained. The applicant prays that we reinstate his appeal, a request which is not opposed by the respondent. We think in the premises that it is fair to allow the application to enable the applicant to prosecute the appeal which he had withdrawn.

5. Nyeri Criminal Appeal No. 98 of 2016 is hereby reinstated. The registry shall reinstate the appeal without requiring the applicant to pay any Court fees.

**DATED AND DELIVERED AT NYERI THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2024.**

**S. OLE KANTAI**

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**JUDGE OF APPEAL**

**J. LESIIT**

.....

**JUDGE OF APPEAL**

**ALI - ARONI**

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**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

