



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: KARANJA, KOOME & OKWENGU, J.J.A)

CRIMINAL APPEAL NO. 92 OF 2017

BETWEEN

KENNEDY MAINGI YAITHA.....1ST APPELLANT

ELIZABETH MUTULI MUTUKU.....2ND APPELLANT

AND

REPUBLIC.....RESPONDENT

(Being an appeal from the Judgment of the High Court of Kenya at Machakos (Jaden, J.) dated 23rd March, 2016

in

H.C.C.C. NO. 59 OF 2011)

JUDGMENT OF THE COURT

[1] The evidence before the trial court shows that *Tabitha Nthenya Nguku* (the deceased) was last seen alive on the night of 4th September, 2011 by *Raphael Mutunga Njau* (PW2). It was the evidence of PW2 that at the material time he used to do some farm work for the deceased and they were also lovers for about five (5) months. On the fateful night, of 4th to 5th September, 2011, while they were in the deceased's house at about 1 am, they were woken up by dogs barking. The deceased opened the door, and went to see what was happening. PW2 said he heard people banging the door and the deceased scream. He also heard a voice of a woman which he recognized as that of *Elizabeth* (the 2nd appellant) who was the deceased's sister say: "I told you I will kill you". The same voice also threatened him with dire consequences if he went outside.

[2] That was the last time the deceased was seen alive. Her death, who caused it, and the motive behind it remained a mystery to be unraveled by the court in a trial where four people were charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Among them were *Kennedy Maingi Yaitha* (the 1st appellant) and *Elizabeth Muasa Mutua* (the 2nd appellant). The other two co-accused *Jackson Kavingo Mang'ati* and *Ibrahim Muasa Mutua* were acquitted of the charges. The evidence that led to the conviction of the 1st and 2nd appellants was pieced together from some eleven prosecution witnesses. Both appellants gave sworn evidence in their defence and did not call any witnesses. After evaluating the evidence, the learned Judge was satisfied that the prosecution had discharged the burden of proof as against the 1st and 2nd appellants who were found guilty of murder, convicted and sentenced to death.

[3] Both appellants have appealed against the conviction and sentence. This being a first appeal, we are required to re-analyse and re-evaluate the evidence adduced before the trial court and come up with our own conclusion while at the same time bearing in mind that we did not have the advantage of seeing the witnesses testify. This role is in line with well-known and established principles of law which have been cited with approval in numerous cases. See **Okeno vs. Republic** [1971] EA 32: -

"An appellant on a first appeal is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination (Pandya versus Republic [1957] EA36) and to the appellate Court's own decision on the evidence. The first appellate Court must itself weigh conflicting evidence and draw its own decision on the evidence (Shantilal M. Ruwala versus Republic [1957] EA 570). It is not the function of a first appellate Court merely to scrutinize the evidence to see if there was some evidence to support the lower Court's findings, and conclusions. It must make its own finding and draw its own conclusions. Only then can it decide whether the Magistrate's findings should be supported. In doing so, it should make

allowance for the fact that the trial Court had the advantage of hearing and seeing the witnesses.”

[4] That said, **PW2** went on to testify that on the material night, when the deceased was attacked, he also recognised the voices of three men who were **Jackson Mang’ati** (2nd appellant’s husband) **Ibrahim Muasa (Jackson and Ibrahim** were 1st and 3rd accused persons in the trial court but they were acquitted) and **Kennedy Maingi** (1st appellant). He stated that the four persons he named were well known to him as they were his neighbours whom he had known for some years. According to **PW2**, he stayed in the house until the next morning when he ventured out of the house at about 5 am, he saw blood stains about 3 meters from the house and a big stone by the door. There was also a bed sheet and a pair of blue shorts nearby. The bed sheet and shorts were bloodstained. On cross-examination, **PW2** stated that the 2nd appellant had a grudge with the deceased because of a dispute over a cow.

[5] **PW2** reported the incident to the village elder **Nyolo Kyuli (PW1)** who in turn telephoned the area chief and the police. They went back to the scene together and found the police had also arrived at the scene and they followed a blood trail that went past the deceased’s compound. **PW1** confirmed that what he found at the deceased’s home, was a blood-stained stone near the door and a bed sheet. The deceased’s body was not at the scene but they found a trail of blood and bicycle tracks which led them to a nearby dam, hoping to locate the deceased’s body but were unsuccessful at that point.

[6] According to the evidence of **Josephat Kalungu Mutiso (PW3)** who was the area chief, the body of the deceased was found later in the bushes. As he was informed that **PW2** had identified and named four suspects by their voices he started looking for the suspects. He found the 2nd appellant and her husband **Jackson** at a ‘miraa’ kiosk in Kivaa Market. He asked the two suspects to accompany him to his office and in his opinion, the couple appeared uneasy. **Ibrahim** and the 1st appellant were later on brought in by the police. The police searched **Jackson’s** clothes and it was discovered that he was wearing a black pair of shorts inside a long pair of pants and the shorts were very wet. There was a blood stain inside the pocket of the shorts. A small pen knife was also found inside the shorts.

[7] The police questioned **Ibrahim** who stated that it was the 1st appellant who knew where the deceased’s body was hidden. The 1st appellant led the police to Matendeni Kengen Staff Camp and told them to follow bicycle tracks from the gate of the camp towards some bushes. They followed the tracks for about 200 meters to a trench where they found the naked body of the deceased, partially covered with soil. The body had head injuries and a stab wound on the chest. The body was removed and the 1st appellant was arrested and taken to Matuu Police Station. On cross-examination, **PW3** insisted that when the 1st appellant was arrested, he was in possession of a bicycle which had bloodstains on the seat.

[8] The matter was investigated by **PC Julius Ngotho (PW6)** who testified that when he received a report of the incident, he teamed up with **AP Cpl. Mbaluka (PW4)** and they set out to collect evidence at the scene. They followed the blood trail from the deceased’s house to where it converged with bicycle tyre marks. They followed the bicycle tyre marks for about 10 kms until their trail disappeared. Soon after they returned to the police post and heard about the arrest of some suspects. They also heard from the members of public that the 1st appellant was seen with a bloodstained bicycle. They rushed to the 1st appellant’s home and took custody of the bicycle and arrested him. They removed **Jackson** and the 1st appellant from the cell and told them to take them to where the body was. The 1st appellant led them to bushes in a riverbed where the deceased’s body was recovered. There were bicycle tyre marks leading to where the body was hidden partly under the sand. On cross-examination, **PW6** stated that he had been informed of an ongoing land dispute between the 2nd appellant and the deceased.

[9] The evidence of **PW6** was collaborated by that of **Cpl. James Kimei (PW10)** who was at the time stationed at the CID Offices in Matuu. **PW10** visited the scene in the company of the OCS and **PW2** but by that time, the 1st appellant, **Jackson** and **Ibrahim** had been arrested with the assistance of Administration Police Officers. At the deceased’s house, they collected a blood stained stone, bloodstained soil samples and a bloodstained bedsheet as exhibits. A blood trail led them from the scene for about 500 meters where it disappeared. He confirmed that at the police station, the three (3) suspects were separated and interrogated. The 1st appellant agreed to show the police where the body was hidden and led them to Matendeni where they found the deceased’s naked body on a dry river bed. The body had head injuries and a cut on the lower hip. On cross-examination, **PW10** insisted that the three male suspects had gone to the deceased’s house together and that the 1st appellant had led the police to the deceased’s body which was hidden in the dry river bed. He insisted that the black shorts had already been collected and taken to the Chief’s Office and denied that it was used to mop up the deceased’s blood from the police vehicle which took them to the location where the deceased was found.

[10] The body of the deceased was taken to Matuu Hospital Mortuary and the postmortem examination was conducted by **Dr. Joachim Mutua Mulwa (PW7)**. According to the doctor, the deceased had suffered a severe head injury caused by blunt trauma resulting in cardio-pulmonary arrest. He produced the postmortem report. Blood samples were taken from **Jackson** and the deceased as well as other items including black shorts belonging to **Jackson**, a bloodstained piece of wood from the bicycle, a bloodstained stone, a bloodstained bedsheet, a bloodstained pair of blue shorts and a bloodstained soil sample, which were all collected from the deceased’s compound for analysis.

[11] The government analyst **Lawrence Kinyua (PW8)** conducted DNA tests on the items collected at the scene which included; a sample of the deceased’s blood; a sample of **Jackson’s** blood; a pair of black shorts; a piece of wood recovered from the bicycle; a brownish stone; a flowered bedsheet; a pair of blue jeans shorts and a soil sample all recovered from the deceased’s compound. The DNA profile generated from the bloodstains on the pair of black shorts, the blue shorts, the soil sample and the stone all matched the deceased’s blood. The bloodstains on the bed sheet did not generate a DNA profile.

[12] A niece of the 2nd appellant, **Jane Mumbi (PW9)** testified that on 9th September, 2011 she went to her aunt’s business premises where the 1st appellant came with a bicycle. She identified him as the 2nd appellant’s neighbour. She went with the 1st appellant to Kivaa Market to collect foodstuffs for the 2nd appellant. When they reached the 1st appellant’s home she went in and left **PW9** holding the bicycle. Two people on motor cycles came and handcuffed the 1st appellant. Both **PW9** and the 1st appellant were taken to the Chief’s Office where they found the 2nd appellant, **Jackson** and **Ibrahim** already in a cell. They were all placed in a cell but they were later taken to Matuu Police Station. She identified the bicycle by its passenger seat which was painted in a light blue colour. On cross-examination, she denied seeing

any blood stains on the bicycle.

[13] **PC Martin Wangungu** (PW11) who was stationed at Matuu Police Station corroborated **PW10's** testimony that the 1st and 2nd appellants, **Jackson** and **Ibrahim** were handed over to the police by **PW3**. They took the suspects to the deceased's house and the 1st appellant volunteered information regarding the deceased's body. In the company of the police and Jackson, PW11 drove to Matendeni and noted the bicycle tyre marks at the scene and the 1st appellant is the one who told them where to find the body of the deceased. On cross-examination, he denied that the suspects were forced to confess to the crime or made to carry the deceased's body from the scene to the police vehicle.

[14] After the close of the prosecution's case, the four accused persons were found to have a case to answer. Upon being placed on their defence, they each gave sworn testimonies. They all denied the charges and each put forward a defence of *alibi*. **Jackson** stated that on the material day, he had helped his wife the 2nd appellant at her 'miraa' kiosk up to 8pm after which they went home. The following morning, they were at the kiosk when the 1st appellant came to borrow his bicycle to run errands. At about 10am **PW3** came and asked them to accompany him to the office where they were arrested by police officers and put in the cells. At about 1pm the OCS and police officers interrogated him together with **Ibrahim** and the 1st appellant about the events of the previous night. They were beaten during the interrogation and around 4pm they were taken by a police vehicle to some bushes where they were shown the deceased's body. They were forced to carry the body into the motor vehicle and taken to Matuu Police station. He denied that the black shorts and pen knife were his and insisted that the charges were fabricated.

[15] The 2nd appellant similarly insisted that she was innocent and was surprised when **PW3** told her and her husband that they were suspects in her sister's murder. She maintained that she did not have a grudge against the deceased and expressed her shock at the deceased's tragic death. She denied knowing **PW2** and expressed her surprise that **PW2** testified that he identified her voice on the night of the attack. As for the 1st appellant, he claimed that he was a matatu conductor and on the material day he had taken his matatu to Embu for repairs and spent the night there. The following day, he returned to Kivaa and went to **Jackson** to borrow a bicycle. They went to the 'miraa' kiosk and **Jackson** gave him the bicycle and asked him to take a message to **PW9** but they were intercepted by police officers who locked them in a cell at the Chief's office. Later the police took him with **Ibrahim** and **Jackson** to Matendeni where the body was found.

[16] The 1st appellant claimed that they were told to carry the body of the deceased to a police vehicle and thereafter they were locked up at Matuu Police Station. He emphatically denied knowing **PW2** and also being at the deceased's home on the material night. He denied knowing the deceased and also denied leading the police to the scene where the deceased's body was found hidden in the dry river bed. On cross-examination, he stated that he would call the driver of the matatu as a witness to confirm that he was in Embu on the material night. Given time to do so, he however conceded that the driver could not attend court and he closed his defence case.

[17] After evaluating the entire evidence, the trial court believed to a certain extent **PW2's** account of the events that occurred on the material night as well as the medical evidence supporting the gravity of the injuries inflicted on the deceased which suggested that whoever inflicted the said injuries must have intended to kill the deceased. However, the learned Judge was not persuaded by the prosecution's evidence regarding the handling of **Jackson's** pair of black shorts terming it as 'contradictory' in that it was not clear whether the black pair of shorts was recovered from **Jackson** before the deceased's body was recovered or after. This was a critical piece of the evidence if the suspects were made to carry the deceased's body during which the deceased's blood possibly transferred to the black shorts. Also the Judge was not satisfied with the evidence of voice identification by **PW2**, regarding the identification of the 1st appellant, Jackson and Ibrahim.

[18] Similarly, the evidence of **PW11** that the suspects were carried in a different motor vehicle from the one that carried the deceased's body was further contradicted by the evidence of **PW10** who said that the suspects and the body of the deceased, were transported in the same vehicle. Ultimately, due to the poor handling of the black pair of shorts by the investigating officers, it could not be ascertained at which point the pair of shorts became blood stained. The evidence against **Ibrahim** was similarly contradictory as the investigating officer's evidence was not clear whether **Ibrahim** confessed under questioning that the 1st appellant knew the location of the deceased's body or whether the 1st appellant volunteered that information by himself. The court noted that **PW6** did not mention Ibrahim as having mentioned the 1st appellant as the one who knew where the body was. However, **PW10** and **PW11** insisted that it was the 1st appellant who gave them the information where the body was and led them to its recovery. Thus, the Judge ruled that the evidence that led to the recovery of the body did not sufficiently link **Jackson** and **Ibrahim** to the recovery of the deceased's body. However, it was on the basis of this evidence that the 1st appellant was convicted.

[19] Regarding **PW2's** testimony that he recognised **Jackson**, **Ibrahim** and the 1st appellant by their voices, the learned Judge was unconvinced that the evidence of voice recognition alone was sufficient to link them to the crime. However, with regard to the 2nd appellant, the learned Judge was convinced by evidence of the village elder **PW1** and the Chief **PW3** that 2nd appellant and **PW2** were well acquainted enough, as neighbours, for **PW2** to recognize her voice. Based on this evaluation, the trial Judge acquitted **Jackson** and **Ibrahim** but convicted the 2nd appellant.

[20] Aggrieved by that decision, the 1st and 2nd appellants have lodged the instant appeal that challenges the quality of evidence that led to the appellant's conviction contending that the evidence was tainted with contradictions and failure by the learned Judge to establish malice aforethought which is an essential ingredient in a charge of murder.

[21] During the plenary hearing, **Mr. Marube** learned counsel appearing for both appellants relied on his written submissions and made some brief oral highlights. Counsel emphasised that the learned trial Judge erred in convicting the appellants based on uncorroborated, and untested evidence of voice recognition despite the fact that the same evidence was discounted for the other accused persons; that **PW2** was an unreliable witness and at best a suspect in view of the fact that he was in the house late at night with the deceased when the deceased was attacked and he did not raise an alarm and that the court did not examine the prevailing conditions favouring positive identification by voice

recognition. In his view, it was not possible for **PW2** to identify anyone in the prevailing circumstances as it was at night, the dogs were barking and the deceased was also screaming and he himself must have been under fear. Moreover, the Judge did not warn herself of the danger of convicting the 2nd appellant based on the sole evidence of PW2 nor did she rule out a possibility of a mistaken identity. Having acknowledged that there were inconsistencies and contradictions in the prosecution's evidence which led to the acquittal of two other suspects the same evidence could not have been used to convict the appellants. Counsel urged us to allow the appeal and in the unlikely event that we were to sustain the conviction to refer the case back to the High Court for re-sentencing.

[22] Opposing the appeal, was **Mr. O'Mirera**, learned Senior Assistant Director of Public Prosecutions, who relied on his skeleton submissions and made some oral highlights. According to counsel for the respondent, the evidence of **PW2** on voice identification was free from error. This was fortified by the fact that the information which **PW2** gave **PW1** regarding the identities of the appellants is what led the police to discover the deceased's body. Counsel maintained that a re-evaluation of the evidence will show that there was malice aforethought due to the severity of injuries inflicted on the body of the deceased who was savagely dragged from her house, beaten to death and her body disposed of in the bushes. Counsel urged us not to interfere with the conviction and sentence due to the gravity of the crime.

[23] We have carefully considered the record of appeal, the respective submissions by both counsel and the law. We will re-analyze the case of each of the appellant separately. It is common ground that the evidence implicating the 1st appellant was an alleged confession that led to the recovery of the deceased's body as the evidence of voice recognition adduced by **PW2** was discounted. As far as the conviction of the 1st appellant is concerned, apparently the court found the evidence of voice recognition not sufficient to link him and the other two suspects to the scene. This is what the learned Judge stated: -

“However, according to PW2 the other attackers at the scene spoke in low voices except the voice that he identified as that of the 2nd accused. PW2 could not tell what the other voices said. The evidence of voice recognition alone does not sufficiently link the 1st, 3rd and 4th accused to the offence herein.”

Therefore, the conviction of the 1st appellant turned on circumstantial evidence suggesting that he had led the police to the discovery of the deceased's body and that being the case, he must have taken part in the murder.

[24] The evidence of PW10 and PW11 is what stated that the 1st appellant was the one who led police to where the body of the deceased was found partly buried in the sand. In her judgment, the learned Judge stated that: -

“...the evidence analyzed above points at the 4th accused as the one who led to the recovery of the body. In the absence of any explanation this evidence links the 4th accused to the murder of the deceased. The defence by the 4th accused that he was in Embu on the night in question does not dislodge the prosecution evidence that he led the police officers to the recovery of the body.”

[25] This conclusion leads us to the question of whether, by admitting to know where the deceased's body was hidden, the 1st appellant was confessing to having committed the offence of murder. In the recent Supreme Court decision in **Republic vs. Ahmad Abolfathi Mohammed & Another [2019] eKLR**, it was held that there is a distinction between confessions made under the provisions of **Section 25A** of the **Evidence Act** and admissions made by a suspect during interrogation by police. A confession is a direct acknowledgement of guilt and must be voluntary and must be obtained in conformity with **Section 25** of the **Evidence Act** and the **Evidence (Out of Court Confession) Rules 2009**. On the other hand, an admission is a statement by the accused, direct or implied, of facts pertinent to the issue which, in connection with other facts, tends to prove his guilt, but which, of itself, is insufficient to found a conviction.

[26] Consequently, the mere fact that the 1st appellant led the police to the recovery of the deceased's body amounted to implication or great suspicion, from which he could be suspected of having committed the offence but from which a guilty inference could not be made and to form the basis of a conviction as a stand-alone piece of evidence. The other evidence alleged to have connected the 1st appellant to the crime was the bicycle tyre tracks found near the scene where the deceased's body was found. Both Jackson and the 1st appellant testified that the bicycle belonged to Jackson and the 1st appellant had borrowed it the day after the attack. The prosecution did not explain the role the bicycle played in the attack or how it linked the 1st appellant to the attack. There was a vague suggestion by prosecution that the tyre tracks were present at the scene where the body was found but no further link was made between the bicycle and the commission of the murder. Further, a forensic examination of the bicycle found the sample taken was not stained with blood as alleged by the prosecution witnesses. We therefore find merit in the 1st appellant's appeal.

[27] As regards the 2nd appellant's conviction, it was based on the sole evidence of **PW2** who said he recognised her voice. **PW2**'s evidence was that he was familiar with the 2nd appellant; he knew her as the deceased's sister and that she lived in the same neighbourhood and used to give him casual work. Although the 2nd appellant denied having known **PW2**, **PW1** a village elder and the area Chief **PW3** confirmed that all the accused persons and the deceased were residents of the same village. This was sufficient to satisfy the learned Judge who stated as follows:

“...I am satisfied that the evidence of PW2 as analysed above that PW2 knew the voice of the 2nd accused and recognized the same. Although accused 2 denied the offence and stated that she did not know PW2 and that PW2 did not know her voice, it is clear from the evidence of the village elder PW1 and the Chief PW3 that all the parties herein are residents of the same village. Indeed, the 2nd accused's own evidence shows that she lived in Kivaa area. I am satisfied that PW2 knew the 2nd accused and recognized her voice.”

[28] With regard to voice recognition, it has been stated time without number that voice identification is just as good as visual identification.

However, just like visual identification, care has to be taken to ensure that the voice was that of the appellant; that the person testifying as to the voice recognition was familiar with the voice and recognised it; and that the conditions prevailing at the time of the recognition were favourable. It should also be borne in mind that voices may at times resemble. See Karani vs. Republic [1985] KLR 290). In Choge vs. Republic [1985] KLR 1 the Court delivered itself thus on the issue: -

“...There can be no doubt that the evidence of voice identification is receivable and admissible in evidence and that it can, depending on the circumstances carry as much weight as visual identification, since it would be identification by recognition rather than at first sight.”

[29] It is trite that a court can convict based on the evidence of a sole witness although the evidence respecting the identification must be weighed carefully to eliminate a mistake. In Maitanyi vs. R (1986) KLR page 198 the following words were recited by this Court from the decision of Abdallah Bin Wendo & Another vs. Reg [1953] 20 EACA: -

“Subject to well-known exceptions it is trite law that a fact may be proved by the testimony of a single witness but this rule does not lessen the need for testing with the greatest care the evidence of a single witness respecting identification especially when it is known that the conditions favouring a correct identification were difficult. In such circumstances, what is recorded is other evidence whether it be circumstantial or direct, pointing to guilt; from which a judge or jury can reasonably conclude that the evidence of identification, although based on the testimony of a single witness; can sufficiently be accepted as from the possibility of error.”

In this case the trial Judge believed the evidence of **PW2**, that his voice recognition of the 2nd appellant was without error. It is not lost to us that the same evidence of **PW2** regarding voice identification of the other accused persons and even 1st appellant was discounted. We have therefore to subject the said evidence to a further analysis while bearing in mind the prevailing circumstances of when the offence took place. It was at 1 am. **PW2**, did not leave the house; indeed, he stated that **“I stayed in bed”**; the dogs were barking and there was commotion but he said he heard and recognized the voice of the 2nd appellant who told the deceased **“I told you I would kill you”** that she also warned **PW2** not to come out of the house as he would face the same fate. Counsel for the appellants urged us to disregard the evidence of **PW2** for the simple reason that it was excluded in regard to the other accused persons and the fact that he did not raise an alarm when the deceased was attacked which was strange and that he stayed in bed until morning when he reported the matter to **PW1**.

[30] On our part we find that although **PW1** and **PW3** said all the accused persons came from the same area, this by itself cannot be taken as evidence of familiarity.

The 2nd appellant denied any knowledge of **PW2** who said he had worked for the deceased for five (5) months. This being a stand-alone evidence, given under difficult circumstances by **PW2** and bearing in mind a portion of his evidence was discounted in some aspects, in our view, this evidence ought to have been tested by way of a voice identification parade to rule out any mistake. We should also not lose sight of the fact that the evidence of **PW2** in some aspects was disregarded and therefore his credibility as a sole witness cannot be said to have been solid. We echo what this Court stated in Waithaka Chege vs. R [1979] KLR 271 that evidence of visual and voice identification should always be approached with great care and caution. Greater care should be exercised where the conditions for an identification are poor and where identification is by a single witness - see Karanja & another vs. R [2004] 2 KLR 140.

[31] Besides the fact that there is nowhere in the record to show that the Judge took the precaution of ensuring the evidence of voice recognition was foolproof, another aspect in this case that has puzzled us was the motive of the murder of the deceased. The 2nd appellant was a sister to the deceased, apart from **PW2** who merely stated that the deceased had a dispute with the 2nd appellant over a cow, and **PW6** said he ‘heard’ from people that the deceased had a land dispute with the 2nd appellant, there was no cogent evidence adduced to show why the 2nd appellant aided or abetted the killing of her own sister.

[32] We think we have said enough to demonstrate that the evidence against the appellants was not safe to sustain their convictions. The evidence at best created suspicion and no more. For the aforesaid reasons, the convictions of the 1st and 2nd appellants cannot be allowed to stand. Accordingly, the appeal is allowed, the conviction is quashed and the death sentence meted against the 1st and 2nd appellants is set aside. The appellants are to be set free forthwith unless otherwise lawfully held.

Dated and delivered at Nairobi this 7th day of August, 2020.

W. KARANJA

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JUDGE OF APPEAL

M. K. KOOME

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JUDGE OF APPEAL

HANNAH OKWENGU

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR