



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: E.M.GITHINJI, HANNAH OKWENGU &

J. MOHAMMED, J.J.A.)

CIVIL APPEAL ELECTION PETITION NO. 4 OF 2018

BETWEEN

PETER ODIMA KHASAMULE.....APPELLANT

AND

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION (I.E.B.C.).....1<sup>ST</sup> RESPONDENT

THE RETURNING OFFICER BUSIACOUNTY,

FREDRICK APOPA.....2<sup>ND</sup> RESPONDENT

SOSPETER ODEKE OJAAMONG.....3<sup>RD</sup> RESPONDENT

*(Being Notice to show cause why the Notice of Appeal should not be struck out under Section 85 A (1) (a) of the Election Act and Rule 83 of the Court of Appeal Rules*

in

ELECTION PETITION CIVIL APPEAL NO. 4 OF 2018)

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ORDER OF THE COURT

The advocates for **Peter Odima Khasamule** who filed a Notice of Appeal on 19<sup>th</sup> February, 2018 signifying an intention to appeal against the decision of the Election Court dated 12<sup>th</sup> February, 2018 have not appeared today to show cause why the notice of appeal should not be struck out.

Since the intended appellant did not file an appeal within the 30 days stipulated by **section 85 A (1) (a)** of the Elections Act as read with **Rule 8(5)** of the Court of Appeal Election Petition Rules, 2017, the Notice of Appeal has become futile.

Accordingly, it is struck out under **Rule 84** of the Court of Appeal Rules as read with **Rule 4(2)** of the Court of Appeal Election Petition Rules, 2017 with no orders as to cost.

Made at Kisumu this 21<sup>st</sup> day of June, 2018.

E. M. GITHINJI

.....

**JUDGE OF APPEAL**

**HANNAH OKWENGU**

.....

**JUDGE OF APPEAL**

**J. MOHAMMED**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy

of the original

**DEPUTY REGISTRAR**