



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: ONYANGO OTIENO, AZANGALALA & KANTAI. JJ.A.)

CRIMINAL APPEAL NO. 239 OF 2009

BETWEEN

HEZEKIEL OSIRO OSIRO.....APPELLANT

AND

REPUBLICRESPONDENT

(An Appeal from a Judgment of the High Court of Kenya at Kisii (Musinga, J.) dated 22nd July, 2009

in

H.C.CR.A. NO. 59 OF 2007)

ORDER OF THE COURT

On this appeal being called out for hearing, the appellant, who according to the record was sentenced to imprisonment for a term of seven (7) years on 13th April 2007, is not present to prosecute his appeal. Mr. Abele, the learned Assistant Director of Public Prosecutions says the Prisons Department has informed, him that the appellant is no longer in the prison. It would appear he has served the sentence and hence he is out of prison and to get him for purposes of service upon him of the hearing notice may not be easy as his address is not known.

In the circumstances, what commends itself to us and which we hereby do is to mark the appeal as having abated pursuant to Rule 71 (6) of the Court of Appeal Rules.

These are the orders of the Court.

Dated and Made at Kisumu this 31st day of July, 2014.

J.W. ONYANGO OTIENO

.....

JUDGE OF APPEAL

F.AZANGALALA

.....

JUDGE OF APPEAL

S. ole KANTAI

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR