IN THE COURT OF APPEAL

AT KISUMU

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

CRIMINAL APPEAL NO. 68 OF 2013

BETWEEN

MUTONYA KARIUKI & ANOTHER …..... APPELLANTS

AND

REPUBLIC …..... RESPONDENT

(An Appeal from a Judgment of the High Court of Kenya at Kakamega

(Lenaola & Onyancha, JJ.) dated 25th October, 2011

in

H.C.CR.A. NO. 89 OF 2009)

****

JUDGMENT OF THE COURT

The complainant in the case that has ended in this appeal before us ***Patel Prabhakar*** *(PW1)* ***(Patel)*** was as on 12th April, 2008, a businessman at Kakamega, trading in a shop situate along Kenyatta Avenue, next to Franca Hotel. On 12th April, 2008 at about 7.00am, he was at the counter of his shop. Two men entered the shop, one had a black paper bag which he placed at the counter while the second person placed a bullet on the counter. One of the attackers opened his jacket and Patel saw a gun on that man's right side tucked in his trouser. He however saw only the top part of that alleged gun. Patel sensed danger, he removed a knife from the counter. At that time one of the attackers jumped over the counter and removed Ksh.2,000/= and a Senator Credit Card form Patel's shirt pocket. Patel held one attacker's shirt and shouted for help, as he struggled with them. In the confusion that ensued, one attacker slipped out of his shirt and jacket and started running away. The other one followed suit and members of the public who responded to Patel's shouts for help pursued the two. Patel remained in his shop but contacted police and made a report but he did not go to the police station at that time. We note three important matters which are first that the evidence adduced by the police add that there was a watchman guarding Patel's shop who heard a commotion and went to the scene. The police diary said, according to PC ***Benson Oluoch*** *(PW4)* who investigated the case, that watchman slashed one attacker on the shoulder with a panga. Second, another police witness PC Kipkorir was certain Patel never described his assailants and third, Patel said police promised to call him for an identification parade which never materialised.

We will revisit these aspects later in this judgment. More facts. At 8.00am – about one hour after the incident, ***PC Kipkorir Bii*** *(PW3)* of Kakamega Police Station received information from the OCS Kakamega Police Station that there was a robbery in town and suspects were near Kakamega Primary School. He and PC Oluoch went to where PC Kipkorir was told the suspects were but on arrival there they received information that the suspects had gone to the side of Kakamega High School. As they were rushing towards that area, in their vehicle, they saw members of the public chasing two people. They headed towards their side. The two people ran and reached them and both entered their vehicle. Those two people were identified by PC Kipkorir and PC Oluoch as the appellants in this appeal. The two had been beaten. PC Kipkorir and PC Oluoch were given an AK – 47 and three bullets which had allegedly been recovered from the appellants by one ***Amin***. Again, we make haste to add here that PC Kipkorir said in his cross-examination that Amin was a witness in the case but by close of the prosecution's case, no mention was made of the same Amin. Kipkorir and Oluoch rushed the two appellants to the police station where they were booked. They *(Police officers)* then went to Patel's shop. They found Patel who narrated to them his ordeal. They recovered from Patel a jacket yellowish in colour and cell tape. They thereafter went back to the station. On interrogating the appellants, they were told that the two appellants had rented a room in the town. First appellant gave Kipkorir and Oluoch key to that room but as the first appellant was seriously injured, they went to that room with the second appellant. That room was at Lofty Lodge where ***Peter Matheka Musau*** *(PW2)* was the caretaker**.** On reaching Lofty Lodge PC Kipkorir, PC Oluoch and the second appellant proceeded to room 7. On opening the room they found it had two beds but under one of the beds they recovered a bag which had police uniform inside it including police cap *(Traffic)*, trousers and rain coat, and police shirt, all belonging to the Police Force. They returned to the police station with the recovered items and the second appellant. Peter did not go with them to the room and only saw them come out of the hotel with a bag but he did not know what was inside the bag. Although PC Kipkorir and PC Oluoch both said they went to Patel at

his shop and Patel narrated to them the ordeal, Patel, on the other hand does not reveal that aspect. According to Patel, he went to police, at a time he did not state and confirmed that the appellants were the two who had attacked him. He said in re-examination that he was called *"to the Police Station only half an hour later after the incident"* and he was able to recognise the accused as the person who had attacked him. Oluoch's evidence on that is that Patel recorded statement on 12th April at about 11.00 am. Whatever happened, the police sent the gun and the bullets to the firearms examiner. In the meanwhile, the appellants were charged with four offences which were first that of Robbery with Violence contrary to ***Section 296 (2)*** of the Penal Code, the particulars of which were that:-

> *"On the 12th day of April 2008 at Kakamega township, municipality location, in Kakamega Central District within Western Province, jointly, while armed with a dangerous weapon namely AK 47 rifle, robbed Patel Prabhakar Ksh.2000/= and Senator Card all valued at Kshs.2250/= and immediately or immediately after the time of such robbery threatened to use actual violence to the said Patel Prabhakar."*

Count two was that of Having in possession of a firearm without a firearm certificate contrary to ***Section 4 (1) (3)(a)*** CAP 114 Laws of Kenya in that:

> *"On the 12th day of April 2008 at Kakamega township, municipality location, in Kakamega central district, within Western Province, jointly were found in possession of a firearm namely AK 47 rifle S/No. 0-00022 without a firearm certificate."*

The third count was that of having in possession ammunition without certificate contrary to the same Section as in count 2 of Chapter 114 of Laws of Kenya and the place where they were found in possession of the same ammunition was the same as in count 2. We find it unnecessary to reproduce the particulars of that count. In count 4, they faced the offence of being in possession of public stores contrary to ***Section 324 (2)*** of the Penal Code and the particulars were that:

> *"On the 12th day of April 2008 at Kakamega township, municipality location, in Kakamega central district within Western Province, jointly had in their possession public stores namely a pair of trousers, rain coat, one peaked cap, one landyard, one cap cover and a shirt all*

properties of the Kenya police department, such properties being reasonably suspected of having been stolen or unlawfully obtained."

They both pleaded not guilty to all the charges and after the prosecution witnesses had adduced the facts as narrated above and they were put on their defence, the first appellant ***Mutonya Kariuki*** gave sworn evidence in which he said that he left his residence in Eldoret on 9th April, 2009, together with the second appellant for Kakamega in the course of their business of hawking shoes. On reaching Kakamega, they booked a room at Lofty Lodging and on 10th and 11th April 2008, they carried out their business in Kakamega. On 12th April 2008, they woke up and proceeded with their business around Malava area reaching there at 6.40am. They met young men who had boda boda's. They asked them to buy their goods, and they inquired as to their tribes. He told them he was a Kikuyu and his colleague was a Kalenjin. Someone responded saying *"have the Kikuyu come back"* and they were then attacked. Their merchandise were taken. They screamed and as the police were passing, they got into police vehicle. They were taken to police station and were to be charged with the offence of endangering their lives. As he had been injured, he was taken to hospital. After he left hospital, PC Oluoch removed him to the reception where he saw a police officer talking to an Asian. They were pointed at and returned to the cells. They were thereafter taken to court and charged with the offences to which he pleaded not guilty as he never committed those offences.

The second appellant ***Johnson Kibet*** gave unsworn statement in his defence. He stated that on 9th April 2008, they both travelled to Kakamega and reached it at 5.30pm and booked a room at Lofty Lodging. The next morning they hawked their merchandise at Lurambi. On 12th April 2008, they went to Malava road where they met some people who included boda boda cyclists. They were questioned as to their tribe and on answering that question those people wondered loudly *"Wakikuyu wamerudi"* and they were thereafter attacked and beaten and their items stolen from them. He was told that because he returned with a Kikuyu to Kakamega, he would be disciplined. They screamed and as police were nearby they rescued them but instead of taking them to hospital, they were taken to police station. As their phone had remained in the lodging they asked to be taken to the lodging to pick it and the first appellant gave the police the key to the room. Later the first appellant was taken to hospital. When he returned from hospital, PC Oluoch summoned the appellants and they saw an Asian. In their presence PC Oluoch told the Asian. *"It is these ones."* They were thereafter charged with the offences.

In a reserved judgment dated and delivered on 24th June, 2009, the learned Senior Principal Magistrate *(Kimani Ndungu)* found the appellants guilty of all the four counts, convicted each of the accused on each of the four counts. In so convicting the two appellants, the learned Senior Principal Magistrate had the following to say:

> ***"I have considered the evidence from both divides. I note the evidence of the complainant is that of a simple identifying witness. My analysis of the evidence however leads me to conclusion that the complainant had ample time with the accused persons during the incident. It was in broad day light. The circumstances for identification were favourable for a positive identification devoid of a mistake. To corroborate this piece of evidence we have evidence of a chase and arrest immediately after the attack. The accused were chased and arrested by members of the public, disarmed and beaten. The police officers witnessed the chase and recovery. I am satisfied that from the evidence on record, the accused defences are an afterthought, a feeble attempt to avoid the consequences of their act. The defences are to me sheer lies which cannot be true in light of evidence on record. The proverbial 40 days have come to an end for both accused persons and I am satisfied count 1 herein is proven to the required degree"***

The learned Senior Principal Magistrate was also satisfied that the other three counts had also been proved within the standards required in law.

The appellants were not satisfied with these convictions and sentences. They moved to the High Court vide *Criminal Appeal Nos. 89* and *90* both of 2009, filed by the first and the second appellants respectively. Those appeals were consolidated and heard together by Lenaola and Onyancha, JJ. who in a

judgment dated and delivered on 25th October, 2011, dismissed the appeals holding as they did that they had carefully considered the evidence upon which the hounourable trial Magistrate convicted the appellants and in their view the learned Magistrate was entitled to and right to convict the appellants. From their judgment, it is clear to us that the learned Judges of the first appellate court based their decision on part of the evidence of Patel only and on the alleged chase of the appellants by members of the public. On the sentence, the learned Judges concluded:-

> ***"As to sentence however, the death sentence is no longer lawful in Kenya. We accordingly convert the death sentence to that of life imprisonment."***

The two decisions above prompted this appeal in which the appellants, through their advocates James Abande and Associates preferred two grounds of appeal in a Memorandum of Appeal dated 11th July 2014, and filed on 14th July, 2014. These grounds are that:-

> *"1. The High Court failed erred (sic) in law and fact by failing to subject the entire evidence rendered at the trial court to a fresh and independent evaluation and assessment so as to the guilt (sic) of the appellants hence arriving at a wrong conclusion.*

2. *The High Court erred in law and fact in failing to find that the appellants were not correctly identified and that proof presented before court was contradictory and not beyond reasonable doubt."*

In urging these grounds, Mr Abande submitted that the trial court and the first appellate court did not analyse the evidence as is required by law before entering a conviction as there were numerous aspects of the case such as the OB number in the charge sheet and the rifle that was produced that clearly showed that had proper analysis been made, the conviction would not have been entered, for example whereas the appellants were charged with the offence of being in possession of AK 47 rifle, the Ballistic Expert's report states that the weapon examined was a Simonor rifle manufactured in Russia and not AK 47 rifle. He further stated that it was not clear who arrested the appellants and who recovered the alleged weapon and ammunition from them as one Amin who allegedly handed the items to the police was never called as a witness, and no member of the public gave evidence of what happened.

Mr. Abele, the learned Assistant Director of Public Prosecutions conceded the appeal on grounds that alleged identification of the appellants was not watertight and thus serious doubts were left lingering as to whether indeed the appellants were Patel's attackers as members of the public and one Amin mentioned by name were not called to give evidence. In his view an identification parade should have been arranged for Patel to identify his attackers. He also said the learned Judges erred in their holding that death sentence was illegal in Kenya as that is not the case.

The main issue in this case is whether the appellants were properly identified within the standards required in law as the attackers of Patel. In our view pursuit of the conviction in respect of the three counts, though necessary for purposes of establishing the legal position, is not of practical importance in this case as the learned Magistrate did not sentence the appellants in respect of them and even if he had done so, the period that has lapsed since the time they were found guilty of those other offences would have seen the sentences served. That apart, we think the court should have awarded specific sentences for these offences and then ordered the execution of such sentences to be stayed, as death sentence had been passed against them in one count. In that way if the appeal against death sentences succeeded, the appellants would still serve the other sentences. In any case it would make it easy for the appeal courts to know whether such sentence was lawful or not. However, this is a second appeal and we would not deal with severity of sentence as that is a matter of fact such that as no sentence was awarded for these offences, we will not delve into that aspect. Back to identification. The record shows that though the offence of robbery with violence took place at about 7.00am, and that was in broad daylight, however, only one person allegedly identified the appellants and that was Patel, if we are to go by his evidence. Again this was not a case where the single witness arrested and detained the attackers, nor was it a case where the witness chased the appellants throughout till the appellants were arrested without his losing sight of the appellants at any time. This is a case where the witness, having been attacked remained in his

shop and only heard later that members of the public chased the appellants and as they were about to arrest them, the appellants ran into a police vehicle. The police took them to police station and according to Patel he went to the police station and confirmed the appellants were the attackers but according to PC Kipkorir and PC Oluoch, after they had taken the appellants to the police station they went to Patel at his shop and that is where he narrated his ordeal to the two police officers. Again, much as the trial court and the first appellate court may have felt this was a straight forward case, we, with respect think that on proper analysis and evaluation more serious aspects needed to be considered before the identification of the appellants was accepted as being that beyond any reasonable doubt. What we mean is that the evidence on identification needed to be considered with greater care than was done here. The law as regards the standard to be applied when considering a case in which an accused person denies his identification as the culprit is now well settled. In the well known case of **Roria vs. R. (1967) EA 583**, the predecessor to this Court stated *(as per Sir Clement de Lestang, V.P) inter alia* as follows:

> **"A conviction resting entirely on identity invariably causes a degree of uneasiness, and as Lord Gardner, L.C said recently in the House of Lords, in the course of a debate on Section 4 of the Criminal Appeal Act 1966 of the United Kingdom which is designed to widen the power of the courts to interfere with verdicts:**
>
> > **There may be a case in which identity is in question, and if any innocent people are convicted today I should think that in nine cases out of ten if there are as many as ten – it is in a question of identity."**

These sentiments clearly mean that the court needs to examine evidence of identification of an accused person with greatest care to avoid a situation where an innocent person is convicted merely because of evidence of a witness who may be honest but nonetheless mistaken on his identification of the accused person. In the case of **Kamau v. Republic (1975) EA 139**, it was stated:

> **"The most honest of witnesses can be mistaken when it comes**
>
> **to identification."**

In the English case of **R. vs. Turnbul and others, (1976)3 All ER, 549**, Lord Widgery CJ. set out succinctly what the courts should look for when considering evidence of identification of an accused person in a criminal case. He said *inter alia*:-

> **"First, whenever the case against an accused depends wholly or substantially on the correctness of one or more identifications of the accused which the defence alleges to be mistaken, the judge should warn the jury of the special need for caution before convicting the accused in reliance on the correctness of the identification or identifications. In addition he should instruct them as to the reason for the need for such a warning and should make some reference to the possibility that a mistaken witness can be a convincing one and that a number of such witnesses can all be mistaken. Provided this is done in clear terms the judge need not use any particular form of words.**
>
> **Secondly, the judge should direct the jury to examine closely the circumstances in which the identification by each witness came to be made. How long did the witness have the accused under observation? At what distance? In what light? Was the observation impeded in any way, as for example by passing traffic or a press of people? Had the witness ever seen the accused before? How often? If only occasionally, had he any special reason for remembering the accused? How long elapsed between the original observation and the subsequent identification to the police? Was there any material discrepancy between the description of the accused given to the police by the witness when first seen by them and his actual appearance? If in any case, whether it is being dealt with summarily or on indictment, the prosecution have reason to believe that there is such a material discrepancy they should supply the accused or his legal advisers with particulars of the description the police were first given. In all cases if the accused asks to**

be given particulars of such description, the prosecution should supply them. Finally, he should remind the jury of any specific weaknesses which had appeared in the identification evidence. Recognition may be more reliable than identification of a stranger; but, even when the witness is purporting to recognise someone whom he knows, the jury should be reminded that mistakes in recognition of close relatives and friends are sometimes made.

All these matters go to the quality of the identification evidence. If the quality is good and remains good at the close of the accused's case, the danger of a mistaken identification is lessened; but the poorer the quality, the greater the danger.

The above sets out the matters that a trial court and in our jurisdiction, first appellate court need to consider in their duty in examining with greatest care the evidence on identification. It is only after examining these aspect that the court can feel safe to convict at the trial level and to confirm the conviction based on identification at the first appellate level. This Court, relying on the above case of *R vs Turnbull (supra)* stated as follows in the case of **Francis Kariuki Njiru & 7 others vs Republic** *(Criminal Appeal No. 6 of 2007) ur:*

"The law on identification is well settled and this Court has from time to time said that the evidence of identification must be scrutinised carefully and should only be accepted and acted upon if the court is satisfied that the identification is positive and free from the possibility of error. The surrounding circumstances must be considered (see R vs Turnbull (1976) 63 Cr. App. R 132). Among the factors the court is required to consider is whether the eye witness gave a description of his or her attacker or attackers to the police at the earliest opportunity, or at all. This Court in Mohamed Elibite Hibuya & Another vs R. Criminal Appeal No. 22 of 1996 (unreported) held that:

> **"It is for the prosecution to elicit during evidence as to whether the witness had observed the features of the culprit and if so the suspicious details regarding his features given to any one and particularly to the police at first opportunity."**

In this appeal, the gist of the two grounds of appeal preferred is that the trial court did not analyse and evaluate the evidence that was before it and as a result came to a wrong conclusion on the identity of the culprits; and that the first appellate court failed in its duty of revisiting that evidence afresh, analysing it, reevaluating it and reaching its own independent conclusion while giving allowance to the fact that the trial court had advantage over it of seeing the demeanor of witnesses and hearing them. In our considered view and with respect, we cannot fault that complaint when the law in respect of standards required as stated in the cases cited above is considered. Many aspects cause us concern in this matter.

First, the only witness on identification was Patel. He had an encounter with the attackers for a short time in his shop unlike the learned Magistrate would have us believe. Two attackers entered his shop, threatened him by one placing a bullet on the table and another opening his jacket for him to see a gun. Thereafter one jumped over the counter and took Ksh.2,000/= and a senator credit card and a short struggle ensued resulting in the two running off. That could not have taken more than five minutes. But even if it had taken a longer period, once they ran off, Patel never saw them till some people were arrested and they were at the police station having been apprehended. Time-wise this was for a period well over thirty minutes because the robbery according to Patel took place at about 7.00am or 7.15am as per evidence in chief and as he later said in cross-examination – and 8.00am when PC Kipkorir said they received information and orders to trace the alleged thieves. Even assuming Patel saw them at 8.00am, still that was after forty five (45) minutes within which they were not in his site as he never chased them. In fact PC Oluoch was more specific that Patel recorded his statement at about 11.00am. That would mean that Patel next saw the people he purportedly identified as his attackers well after one hour. That scenario demanded that Patel should have been made to identify his attackers at an identification parade and not to be shown the appellants at the police station directly without testing his ability to identify his attackers through a properly conducted identification parade. This was not done and that was probably because as is clear from the record, and in particular from the evidence of Patel in which he stated:

"I have not given the physical appearance, description in the statement,"

and as confirmed by PC Kipkorir,

> *"He never described his assailants."*

PC Oluoch also said Patel did not give description of the assailants, and thus the police, having no description of Patel's assailants, could not organise identification parade. That was in our view as a result of proper investigation that would have incorporated the description of the attackers. What is even more intriguing is that after the appellants had run into the police vehicle and were taken to the police station, PC Kipkorir and PC Oluoch, instead of calling Patel to the police station and taking his statement without his seeing the appellants and asking him to describe the attackers, went to his shop and clearly discussed with him the attack, but even after that they never caused identification parade to be organised, now that one would have expected them to have taken description of the appellants from Patel. In our view, the identification here was a dock identification and no more. In law, dock identification is worthless unless there are other evidence to support it.

In the case of **Gabriel Kamau Njoroge vs Republic (1982 – 88) 1 KLR**, it was held as follows:-

> **"A dock identification is generally worthless and the court should not place much reliance on it unless this has been preceded by a properly conducted identification parade. A witness should be asked to give the description of the accused and the police should then arrange a fair identification parade."**

In this case matters were made worse in that Patel was a single witness and that called for even greater care in testing his evidence on identification before basing a conviction on it – see the case of **Abdallah Bin Wendo v R. 20 EACA 166** at page **168**. Failure to organise identification parade for Patel to identify his assailants was fatal and this was even made worse by calling him to identify them at the police station after they had been arrested without doing so through an identification parade.

The other disturbing aspect of this case is whether Patel's evidence was honest and could be relied on for conviction particularly as he was a single witness on identification? We do not think so. First Patel in his evidence never mentioned that at the time of the attack on him there was a watchman guarding his shop who heard commotion and went to the scene before the attackers left. PC Oluoch's investigating diary said the watchman slashed one thug with a panga. We cannot see any other source of that information entered in the investigation diary other than Patel. Yet in his evidence he never mentioned the watchman nor the incident. Second, PC Kipkorir and PC Oluoch were certain that after arresting the appellants and taking them to the police station, they went to Patel's shop and Patel narrated to them his ordeal while at his shop. Patel never mentioned that in his evidence. Third, whereas Patel did not state specifically when he went to the police station preferring to say in re-examination that he was called to the police station only half an hour later after the incident, the evidence of PC Oluoch shows that he made a statement at 11.00am which is close to four hours after the incident at 7.00am. All these, in our humble view, make it difficult to feel safe in convicting the appellants on his evidence which was evidence of a single witness on identification.

The learned trial Magistrate and the first appellate court put some weight on the chase of the appellants by members of the public and used the episode as corroboration of Patel's evidence. With respect, we feel this should not have been so simply because none of the members of the public did give evidence of the alleged chase and the reasons for the chase. Whereas it is true that the appellants were chased and were beaten, the appellants' reason for that chase was different from the prosecution's reasons for the same. As none of the members of the public gave evidence on the same, the appellants' version cannot be said to have been ousted altogether. In fact, without the evidence of the alleged Amin who gave the alleged gun and ammunitions to the police directly, the proof of the appellants being in possession of those items cannot be watertight for who knows where Amin got them from other than through hearsay evidence. PC Kipkorir being conscious of that told the court that:

"Amin is the witness we shall call."

He was never called and no explanation for that failure was ever offered. That witness or any member of the public together with the alleged watchman who was named in the investigation diary were in our mind vital witnesses. The watchman in the police investigation diary would have given evidence of the identity of those who attacked Patel and thus would have provided the supporting evidence needed for assurance purposes whereas Amin would have told the court from where he got the gun and the ammunition and why he was chasing the appellants if he chased them at all.

In our view, there were so many missing links in the evidence adduced in this case that it would not be safe to convict on the available evidence. The only conclusion that on proper evaluation of the evidence the court could have arrived at is that the evidence of those two witnesses would have adversely affected the prosecution's case. In the case of **Bukenya and Others v. Uganda, (1972) EA**, **549** the Predecessor to this Court held *inter alia*:-

> **"(ii) the prosecution must make available all witnesses necessary to establish the truth, even if their evidence may be inconsistent;**
>
> iii. **the court has the right, and the duty, to call witnesses whose evidence appears essential to the just decision of the case;**
>
> iv. **where the evidence called is barely adequate, the court may infer that the evidence of uncalled witnesses would have tended to be adverse to the prosecution."**

As to Government uniform, the provisions of the former ***Section 31*** of the Evidence Act had been repealed and with that, recoveries resulting from confessions of the appellants cannot be admitted in evidence. But in this case, even if that was not considered, still PC Kipkorir said there were two beds in that room 7 at Lofty Lodge. The uniforms were allegedly found under one of the beds. None was called from the lodging among the room attendants or the managers to state as to whether the lodging and its staff knew nothing about the bag and its contents. Peter Matheka was a caretaker at the lodging but he never accompanied the police officers and the second appellant to that room, neither was he asked about a key that would normally be kept by the lodging which enabled access to the rooms for cleaning. That was necessary as the lodging staff had free access to the room even during the absence of the appellants.

We think we have said enough to show that we think Mr Abande is plainly right in raising the two grounds of appeal as indeed had the first appellate court carried out its duties as was required of it, this matter would not have reached this Court. Mr. Abele rightly conceded the appeal.

As to sentence, we are at a loss as to the basis upon which the first appellate court felt the sentence of death was illegal in Kenya. We need only say that that is not so. As the appeal is being allowed, we need not go into that aspect save to repeat it that death sentence is still lawful in Kenya, and that holding is with respect representing an error in law.

This appeal is allowed, convictions quashed and sentences set aside. Each appellant is set at liberty unless otherwise lawfully held.

Dated and Delivered at Kisumu this 19th day of September, 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