



Case Number:	Criminal Case 106 of 2006
Date Delivered:	27 Sep 2008
Case Class:	Criminal
Court:	High Court at Nairobi (Milimani Law Courts)
Case Action:	Ruling
Judge:	Onesmus Kimweli Mutungi
Citation:	REPUBLIC v GEORGE KURIA GABRIEL [2008] eKLR
Advocates:	-
Case Summary:	<b>Constitutional Law – violation of fundamental rights</b> – accused person challenging the legality of proceedings on the ground that the accused was held in custody beyond the constitutionally permitted period of 14 days before being brought to court – prosecution conceding the challenge – validity of application – Constitution of Kenya, sections 72(3) (b), 77 (1) (2) (b) & ( c )
Court Division:	Criminal
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	Allowed
History County:	-
Representation By Advocates:	Both Parties Represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law

as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.

**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Criminal Case 106 of 2006**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**GEORGE KURIA GABRIEL..... ACCUSED**

**R U L I N G**

The preliminary Objection herein is dated 29/4/08 and is based on Sections 72(3) (b) and 77 (1) (2) (b) & ( c ) of the Constitution.

The application challenges the legality of these proceedings on the ground that the accused was held in custody beyond the constitutionally permitted period of 14 days before being brought to court.

Given that the prosecution has conceded the challenge, I rule as under

1. The Constitutional and Fundamental Rights of the accused was per Section 72(3) (b) have been, are being, and continue to be violated by the proceedings in this Criminal Case No. 106 of 2006.
2. Accordingly, I find and hold that the proceedings are null and void, the same having their genesis on an illegality.
3. I hereby order the release forthwith, of the accused, unless he is otherwise lawfully held.

DATED and delivered in Nairobi, this 27<sup>th</sup> Day of September, 2008.

**O.K. MUTUNGI**

**JUDGE**



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)