



**Republic v Kirui (Criminal Case 96 of 2014)
[2022] KEHC 3237 (KLR) (Crim) (30 May 2022) (Ruling)**

Neutral citation: [2022] KEHC 3237 (KLR)

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

CRIMINAL

CRIMINAL CASE 96 OF 2014

DO OGEMBO, J

MAY 30, 2022

BETWEEN

REPUBLIC PROSECUTION

AND

EDWARD KIRUI ACCUSED

RULING

1. I have considered the submissions of both sides in this matter. The defence have asked for adjournment first on the ground that counsel have just taken over the conduct of this matter from Mr. Koech, the previous counsel. It is true that Mr. Koech has been on record in this matter. However, the record show that Mr. Kiprono and Mr. Yegon first appeared before this court on February 15, 2022. Directions were further given on March 23, 2022 when the hearing dates were confirmed. Again, on May 23, 2022, Mr. Yegon, pleaded with the court on the same ground and undertook on behalf of the defence to be ready to proceed today. This court is therefore convinced that this application for adjournment is made in bad faith. It only meant to further delay this matter.
2. On the 2nd limb of this application i.e plea for stay of these proceedings, this court considers that both sides concede that this is probably the oldest case in this division. It is a part-heard with upto 8 witnesses having testified. It has been ordered to start afresh 3 times. No tangible reason has been placed before this court to warrant on orders of stay. This case has previously been ordered to proceed. And this does not deny or curtail the accused the right to pursue whatever case or interest he may wish to before the Constitutional Division, a judge of concurrent jurisdiction. I find this plea for stay baseless and I dismiss the same.
3. I have considered the history of this case and I am convinced that for proper case management it is proper that this court issues firm directions on how to proceed going forward. I issue the following orders;-



- i) In view of the fact that counsel for the accused came late and matter was only confirmed for hearing late in the day (at about 3:00pm), this matter is adjourned for today. No further adjournment shall be tolerated on the side of the defence.
 - ii) I shall give a hearing date for this matter. The defence is expected to attend and be ready to proceed on time as fixed. The accused is duly reminded to be ready with his advocate to proceed. He is further reminded of his right under Article 50 (especially (g) and (h) on opportunity to be represented by advocate.
4. I otherwise order the defence to collect the original defence file from the accused's former advocates. In the alternative, the defence to take own initiative and at their own cost, to take copies of such statements and exhibits from the office of the DPP. They are also at liberty to secure any such material from the court file.

I shall fix a hearing date. Hearing 29.7.2022 (9:00AM)

HON. D. O. OGEMBO

JUDGE

30TH MAY 2022

