



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Tamba & 3 others (Criminal Case 15 of 2015)  
[2022] KEHC 13628 (KLR) (23 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13628 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL CASE 15 OF 2015  
WM MUSYOKA, J  
SEPTEMBER 23, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SILVESTER SINDANI TAMBAA ..... 1<sup>ST</sup> ACCUSED**

**BONFACE MWANZI OKONYO ..... 2<sup>ND</sup> ACCUSED**

**SEDRICK MUDAVE JOMO ..... 3<sup>RD</sup> ACCUSED**

**ALLAN AMBEYI LICHOTI ..... 4<sup>TH</sup> ACCUSED**

**RULING**

1. This is one of the matters that I took over from F. Amin J. on 16<sup>th</sup> June 2022. It was due for ruling on 21<sup>st</sup> April 2022, over an application to have the matter adjourned to allow the Republic to call witnesses.
2. The accused persons are charged with the murder of Genald Shiandayi Kamau. The particulars are that on the 24<sup>th</sup> February 2015, at Mukomari Village, Lukusi Sub-Location, Kakamega East District, within Kakamega County, they murdered the said person. Plea was taken on 25<sup>th</sup> March 2015, and all the four accused persons denied the charges. No witness has ever testified in the matter since.
3. Under the Constitution of Kenya, Article 50, an accused person is entitled to a fair and speedy trial. A delay of seven years to have a case against an accused person start in earnest, by having witnesses presented and testify, cannot be said to be a fair and speedy trial. In this case there has been violation of the fair trial principles as a result.
4. I am persuaded that the adjournment sought by the State ought not to be allowed. The State has had seven years to present witnesses, and it has failed to take advantage of the opportunity. There is no guarantee that being allowed more time will yield any results.



5. I shall accordingly deny the adjournment sought, terminate the prosecution of the four accused persons, and acquit them of the murder charge that they face. They shall be set free, unless they are otherwise lawfully held.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 23RD DAY OF SEPTEMBER 2022**

**W M MUSYOKA**

**JUDGE**

**Mr. Erick Zalo, Court Assistant.**

**Ms. Kagai, instructed by the Director of Public Prosecutions, for the Republic.**

**Mr. Ondieki, Advocate for the accused persons.**

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