

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MURDER NO.59 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

ISACK ONYANGO OGINGA.....ACCUSED

R U L I N G

1. The accused person is charged with the Offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the charge are that on the 2nd December, 2013, he one murdered **Sammy Oricho Juma**

In establishing their case the state called 2 witnesses whose evidence can be summarised as follows:

2. **PW1 Dr. Rukia Aksam** testified on 14th June, 2017 but was stepped down because the state did not have the deceased's postmortem..
3. **PW2 Sgt Samson Onyinge** recalled that he arrested accused on 16th September, 2014 on instructions from OCS Awasi Police Station.
4. At the close of the prosecution case, the state did not avail any evidence to prove death of **Sammy Oricho Juma**. The state counsel variously failed to avail witnesses on the ground that they had become difficult.
5. In the premises, I am persuaded that there is no sufficient evidence to warrant this court to put the accused person on his defence.
6. Consequently the accused is hereby released under the provisions of Section 210 of the Criminal Procedure Code unless lawfully held. Orders accordingly.

DATED, SIGNED AND DELIVERED THIS 8th DAY OF March, 2018

T. W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistants- Felix and Carolyne

Accused -Present

For accused – Ms Alinaitwe/Odhiambo

For the State – Ms Wafula