

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT HOMA BAY
CRIMINAL CASE NO.11 OF 2016

REPUBLIC PROSECUTOR

VERSUS

JAIRUS ODHIAMBO.....ACCUSED

RULING

1. This is a file which has the misfortune of moving around the courts within the region. It was initially transferred from Homa Bay to Kisii High Court on 24/02/2016 and even at Kisii as early as 4/05/2016 the prosecution file and witnesses were not available.

2. When it next came to court on 13/06/2016 the Presiding Judge at Kisii ORDERED TRANSFER OF THE FILE TO Homa Bay and it was fixed for hearing on 30/08/2016. Unfortunately on that date the court was not sitting due to an official engagement and hearing was set on the next time in Homa Bay on 29/11/16 when prosecution sought an adjournment as there was need for a Post mortem report which had earlier on been produced in HCCRC No.54 of 2013 – and the matter was set for today. It seems HCCRC No.54 of 2013 was completed and there is now an appeal preferred at the Court of Appeal sitting in Kisumu but the DPP does not have the file number for the appeal pending.

3. This is only the 2nd time that the prosecution has sought adjournment for hearing and considering the situation explained by the State lapse in evidence has been presented on summoning of witnesses, I find its prudent to allow an adjournment and direct that the Deputy Registrar Homa Bay do provide DPP with a copy of the post mortem report in Homa Bay HCCRC No.54 of 2013 which file has an appeal pending before Court of Appeal Kisumu.

4. Hearing be listed for 20/03/2017.

Delivered and dated at Homa Bay this 31st day of January, 2017

H.A. OMONDI, JUDGE

31.01.2017