

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL CASE NO. 84 OF 2005

REPUBLICSTATE

VERSUS

VINCENT ONDIEKI OMAOACCUSED

JUDGMENT

The accused **VINCENT ONDIEKI OMAO** was charged with the offence of **MURDER CONTRARY TO SECTION 203 as read with SECTION 204 OF THE PENAL CODE.** The particulars of the charge were that

“On the 5th and 6th days of September, 2005 at Gosemia Village Keringet Molo in Nakuru District of the Rift Valley Province murdered LABAN MANENO ONGERA”

The accused pleaded ‘**Not Guilty**’ to the charge and his matter was set down for a full hearing.

As can be seen this is very old 2005 matter. The trial did in fact proceed and by a judgment delivered on 7th May, 2008 the accused was found guilty and was convicted for the offence of murder and sentence to death. The accused filed an appeal challenging his conviction and by its judgment dated 23/2/2013 the Court of Appeal allowed the appeal, set aside both the conviction and sentence of death and directed that a re-trial be conducted.

The accused was brought back to the High Court for re-trial on 22/1/2013. From that date to the present time the prosecution have totally failed to avail even a single witness for the re-trial. After several adjournments and four (4) years down the line the learned Stated Counsel on 20/12/2016 indicated that no witness could be traced as the witnesses were said to have moved to a new location and he closed his case.

Clearly no *prima facie* case has been made out. Not a single witness was called to adduce any evidence against the accused. As such I enter a verdict of ‘**Not Guilty**’ and I acquit the accused of this charge of murder. The accused is to be set at liberty forthwith unless he is otherwise lawfully held.

Dated and Delivered in Nakuru this 31st day of March, 2017.

Ms Kerubo holding brief for Ms Ndeda

Mr. Motende for State

Maureen A. Odero

Judge