



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**

**CRIMINAL CASE NO.24 OF 2012**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MUBARAK SHEIKH ABDULLAHI.....ACCUSED**

**RULING**

The accused herein was brought to court in October 2004 in Nairobi in Criminal Case No. 137 of 2004. For various reasons, the matter did not take off for years and on 16<sup>th</sup> December 2016 the Prosecuting Counsel Mr. Okemwa informed the court that the police were not able to trace the court file. Counsel informed the court that the mother of the accused who was also the mother of the accused, Fatuma Shariff was in court and had asked in writing that the accused be released.

Counsel thus applied under section 25(1) of the Office of the Director of Public Prosecution Act 2013 for permission of this court to withdraw the criminal proceedings herein against the accused.

Learned defence counsel Mr. Onono did not oppose the request by the prosecution but lamented that the prosecution took very long to make such a decision while they knew long ago that they had no witnesses available for the case.

Having considered the request of the prosecution and the position taken by the defence as well as the circumstances of the case where witnesses are unavailable together with the age of the case, which is a 2004 case, I allow the request of the DPP.

I thus order that the criminal proceedings herein be and are hereby discontinued. The accused herein is hereby discharged.

**Dated and delivered at Garissa this 22<sup>nd</sup> March 2017**

**GEORGE DULU**

**JUDGE**