

REPUBLIC OF KENYA

IN THE HIGH COURT AT MIGORI

CRIMINAL CASE NO. 109 OF 2014

BETWEEN

REPUBLIC PROSECUTOR

AND

ERICK OUMA OGALO ACCUSED

RULING

The accused, Erick Ouma Ogalo, was charged with the murder of his daughter **Wendy Achieng'** on 1st November, 2014 at Odongo ER Village, West Sakwa, Migori County. He pleaded not guilty and the trial commenced.

The court heard two witnesses. **PW1 – Dr. Rua Sammy Mwatela**, testified that he performed the post mortem and he concluded that the cause of death was as the result of cerebral oedema secondary to blunt force trauma on the head.

PW2, the deceased's mother **MARY ANYANGO** testified that the child, who was eight (8) months old, was learning to walk and she could have fallen and hit her head. She also testified that the child had been sick and had injuries before 1st November, 2014

In view of this inconclusive evidence, from the principal witnesses, **Ms Owenga**, learned prosecutor, applied to withdraw the case under **Article 157 (8)** of the Constitution.

As the defence counsel, **Mr. Odero**, does not object, I grant leave for the prosecution to withdraw the case.

In light of the evidence that I have heard from the two principal witnesses it is unlikely that any criminal charges can be sustained against the accused based on the facts. I therefore acquit him of the charge and he is now set free unless he is otherwise lawfully held.

Dated, signed and delivered in Open Court at Migori this 16th day of June, 2015

D. S. MAJANJA

JUDGE