



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.83 OF 2013**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**STEPHEN KARIKO .....1<sup>ST</sup> ACCUSED**

**HILLARY NDHIWA.....2<sup>ND</sup> ACCUSED**

**RULING**

1. **Hillary Ndhiwa** and **Stephen Kariko** are the 1<sup>st</sup> and 2<sup>nd</sup> accused respectively in Criminal Case No. 83/2013. They are charged with the murder of Joseph Wanjohi Nderitu. The offence was allegedly committed on 17<sup>th</sup> March 2013 at Makongeni Estate in Ruai, Njiru District within Nairobi County. Both accused were arraigned in court on 1<sup>st</sup> August 2013 when they pleaded not guilty to the charge and were remanded in custody. They were subsequently released on bail after key witnesses had testified.

2. The prosecution case is that the accused were officers serving at the Administration Police (AP) Post at Makongeni. That on or around 17<sup>th</sup> day of March 2013, the deceased was arrested and placed in custody in the said AP camp on allegation of having broken into a shop and stolen goods. The complainant one Jemimah Wambui who testified as PW1 told the court that she had left the key to her shop with the accused. Both PW1 and her husband PW2 told the court that they reported the theft and that the deceased was arrested and placed in custody. PW3, PW4, PW5, PW6, PW7 and PW8 who were friends and relatives of the deceased went to the AP camp when they learnt of his arrest. They found him having been severely assaulted and in a bad state. Upon their insistence, the accused persons took the deceased to Mama Lucy Kibaki Hospital. He later died while undergoing treatment. The accused persons were said to have abandoned the deceased in hospital.

3. PW9 and PW10 told the court that they were in custody at the AP camp when the deceased was brought into the cell. The pathologist Dr. Johansen Oduor who testified at PW12 told the court that he found multiple bruises on the deceased's body particularly on the knees, the left lower jaw and the left side of the trunk. He also found massive bleeding below the skin and bleeding into the brain. He formed the opinion that the cause of death was shock due to bleeding as a result of blunt trauma.

4. I have carefully considered the evidence now on record as outlined above. It is my finding that the prosecution has established a *prima facie* case against both accused persons. Each accused has a case to answer in accordance with Section 306 of the Criminal Procedure Code.

**Ruling delivered and signed at Nairobi this 25<sup>th</sup> day of November, 2015.**

**R.LAGAT-KORIR**

**JUDGE**

**In the presence of:**

- .....: Court clerk
- .....: 1<sup>st</sup> accused
- .....: 2<sup>nd</sup> accused
- .....: Counsel for 1<sup>st</sup> accused
- .....: Counsel for 2<sup>nd</sup> accused
- .....: Counsel for the State/accused