

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL CASE NO. 60 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

JOSEPH MUTUA KIMANZI.....1ST ACCUSED

JOSEPH MUSYOKA.....2ND ACCUSED

STEPHEN MUTHUI.....3RD ACCUSED

RULING

1. The defence has objected to the production of the identification parade for on the ground that the same was amended to reflect the offence of murder. It is also contended that the procedural requirements for the carrying out of identification parade were not adhered to.
2. The prosecution has conceded to the amendment of the offence reflected in the parade forms. The prosecution's explanation is that the accused was
3. initially charged with the offence of robbery with violence but a decision was later made that he be charged with the offence of murder.
4. The Force Standing Orders issued by the Commissioner of Police under section 5 of the police Act Cap 5 Laws of Kenya provide for the manner in which an identification parade ought to be carried out. The value of an identification parade as evidence would depreciate if an identification parade is not conducted in accordance with the Force Standing Orders (**see example Douglas Kinya Njeri –VS- Republic [2015] eKLR & John Mwangi Kamau [2014]eKLR**).
5. The issued raised by the defence counsel in my view dwell on the question of the weight to be attached to the evidence of the identification forms herein. This can best be addressed through cross examination and submissions. The production of the identification parade forms is therefore overruled.

Dated, signed and delivered at Machakos this 7th day of December, 2015.

B. THURANIRA JADEN

JUDGE