

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUSIA
Criminal Case 5 of 2008

REPUBLICPROSECUTOR
-VERSUS-
WILSON ODUORI ODUMA.....ACCUSED

R U L I N G

The accused person Wilson Oduori Oduma, is charged with the offence of murder contrary to Section 202 as read with Section 204 of the Penal code. The prosecution called only one witness, Pauline Atieno Wanyama, to testify. At the end of her evidence she had not in any way linked the accused with the death of the deceased, Vincent Songa. Mr. Okeyo then told the court that prosecution would not offer any further evidence by calling other witnesses. This is because, he said, none of such other witnesses will add value or improve upon the evidence of PW1. He felt that calling other witnesses will accordingly be wasting court's time.

I have carefully considered the position after perusing S. 306(1) of the Criminal Procedure Code, Cap. 75 of the Laws of Kenya. I am satisfied that there is no evidence now on record that the accused person committed the offence of murder as charged. Since both counsel did not choose to address the court

in submission but left it to court, it is my finding and my judgment that the accused is not guilty of the offence of murder. He should be and is hereby acquitted of the charge. He is set free from remand prison unless therein lawfully held. Orders accordingly.

Dated and delivered at Busia this 22nd day of June 2010.

D.A. ONYANCHA

J U D G E