

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Criminal Revision 9 of 2006

REPUBLIC.....APPLICANT

-VS-

ANTHONY MUGWANGA WAMBUI.....1ST RESPONDENT

JOSEPH KIHANDA NDUNG’U.....2ND RESPONDENT

RULING

The accused have been charged for the offence of murder, contrary to Section 203 as read with 204 of the Penal Code Cap 63 Laws of Kenya. The particulars of the offence as stated on the information are as follows:

“On the 16th day of November, 2002 at Biafra Estate in Thika District within the Central Province jointly with others not before court murdered THADIUS OCHIENG OPONDO.”

After carefully perusing the evidence of the 9 witnesses, I hereby find that the prosecution has established a prima facie case against the accused to require them to be put on their defence in accordance to Section 306 (2) of the Criminal Procedure Code, Cap 75, Laws of Kenya. The accused have the option to address the court either personally or by their advocate. In the event that the accused opts to give a sworn statement, then they will be subjected to cross-examination. The accused also have a right to call any number of witnesses in their defence.

Secondly, the accused have a right to make an unsworn statement and call witnesses to their defence. In the event that the accused exercises the second option, they will not be subjected to any cross-examination.

Thirdly, the accused are at liberty not to offer any evidence. In that event, the Court will call upon the State Counsel to sum up the case against the accused persons. Consequently, the court shall then call on the accused persons personally or by their advocate to address the court on their own behalf.

MUGA APONDI

JUDGE

Ruling read signed and delivered in open court in the presence of the accused and

Ms. Odembo & Ms. Njugunafor **Defence Counsel**

Ongondo for **Republic**

MUGA APONDI

JUDGE

25TH JUNE, 2009