

REPUBLIC OF KENYA

IN THE HIGH COURT

AT MOMBASA

Criminal Case 31 of 2001

REPUBLICPROSECUTOR

VERSUS

JEREMIAH BABAYI alias DONIDOACCUSED

R U L I N G

Jeremiah Babaya Alias “Donido” is before this court duly charged with the offence of murder contrary to section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the night of 5th and 6th December 2000 at an unknown time at Bogoni Village in Taita Taveta District within the Coast Province, jointly with Syengo Mutokaa alias “Wango” murdered Emmanuel Sarino.

The prosecution closed their case upon tendering the evidence of ten (10) witnesses. The learned state counsel and that of the defence opted not to make any submissions as required under section 306 of the Criminal Procedure Code. I have considered the evidence of the ten prosecution witnesses and I am convinced that there is evidence that the accused person committed the offence. Consequently, I hereby order that he be placed on his defence. The accused and his legal advisers should therefore inform this court whether or not the accused will personally testify and if so to indicate whether or not he would tender sworn or unsworn testimony. The accused

should also indicate whether or not he is calling for the support of independent witnesses.

Dated and delivered at Mombasa this 29th day of February 2008.

J.K. SERGON

J U D G E

In open court in the presence of Mr. Monda for the state and in the presence of Mr. Wameyo h/b for Mr. Muthama.