

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROB

CRIMINAL DIVISION

CRIMINAL CASE NO.68 OF 2002

REPUBLIC.....PROSECUTOR
VERSUS
JAMES NGUGI NJOKI.....ACCUSED

RULING

The accused was charged with murder contrary to section 203 and section 204 of the Penal Code. He appeared in court on 18th December, 2002 when his plea was taken and he pleaded not guilty. The hearing started before Waki, J on 18th March, 2003.

The state had called 6 witnesses but before the hearing was concluded the trial judge was suspended. Miss Masaka counsel for the accused applies to have the trial so far before Waki JA declared a mistrial. She cited the case of **STANLEY NJOROGE MUNENE CR.CASE NO.18 OF 2000** which was before Etyang J of similar circumstances which court declared a mistrial. In view of the decision in that case the state conceded.

I allow the application and declare the trial before Waki JA so far a mistrial and discharge the accused person.

This is a situation for which neither side is blameable and therefore I order that the state be at liberty to present fresh charges against the accused person if it so wishes.

Dated and delivered at Nairobi this 28th November, 2003.

J.L.A. OSIEMO
JUDGE