



**State v Aol & another (Criminal Case E014 of 2025)  
[2025] KEHC 7804 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7804 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
CRIMINAL CASE E014 OF 2025**

**OA SEWE, J  
MAY 19, 2025**

**BETWEEN**

**STATE ..... PROSECUTOR**

**AND**

**ELIJAH OGWEL AOL ..... 1<sup>ST</sup> ACCUSED**

**STEVE OMONDI OGAL ALIAS BOLE ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. The notice of mention dated 30/4/2025 seeks orders that plea be deferred on account of violations of the accused person’s rights by the police. The alleged abuse of process in that the suspects were arrested on 18/4/2025 and were detained at Oyugis police station upto 23/4/2025.
2. They also contended that the charge is based on 2 conflicting reports and on the basis of the case of Masikini -v- Republic they urged for deferral of plea pending a review by the DPP. the respondent opposed the application and submitted that an application for review is no basis for deferral of plea.
3. The respondent also explained the delay pointing out that the arrest occurred just before the Easter weekend and that the accused persons were presented before court as soon as was practically possible in terms of Art. 49(i)&(ii) Constitution of Kenya.
4. I have considered the submissions and have no hesitation in rejecting the application for 2 reasons.
  1. Alleged violation of constitutional rights is no bar to charge (authorities) - C.A Evans Wamalwa Simiyu -v- Republic.
  2. The issue of conflicting post mortem reports as to the cause of death is a matter of evidence and has therefore been raised prematurely.

The conflicting reports are yet to be produced before the court.



3. Review by the DPP can be done at any time in the course of a trial including plea bargain.
4. Bond to be considered after plea.
5. The application is lacking in merit and is therefore dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 19<sup>TH</sup> DAY OF  
MAY 2025**

**OLGA SEWE**

**JUDGE**

