



**Oduor v Republic (Criminal Revision E095 of 2024)  
[2024] KEHC 5635 (KLR) (7 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5635 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E095 OF 2024**

**MS SHARIFF, J**

**MAY 7, 2024**

**BETWEEN**

**ABONG’O KENNEDY ODUOR ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. I have considered the notice of motion dated 22.4.2024, the affidavit in support thereof, the replying affidavit sworn by Ms. Mercy Mutheu Muema for the Respondent and I have also perused the trial court’s record and I do note that on 15<sup>th</sup> April 2024 the Applicant had indicated to the trial court that he had several witnesses to call but only 1 of them was present yet the trial court only heard the Applicant and the one witness and then proceeded to reserve a judgment date.
2. I do find that indeed the Applicant’s right to a fair hearing as envisaged under article 50 (1) (2) (c) and (k) of the Constitution was violated. He was not even allowed time to submit, leave alone call his witnesses.
3. I thus exercise my powers under article 165 (6) and 7 of the Constitution and I hereby set aside the orders reserving a judgment and hereby reopen the defence/applicant’s case for hearing.
4. Mention on 20.5.2024 before the trial court for taking/fixing of a hearing date. Trial file to be returned to Nyando Law Courts.
5. This file is marked as closed.

**DELIVERED, SIGNED AND DATED AT KISUMU THIS 7TH DAY OF MAY, 2024.**

**MWANAISHA S. SHARIFF**

**JUDGE**

