



REPUBLIC OF KENYA



**Republic v Otieno (Criminal Case E025 of 2023)  
[2024] KEHC 6847 (KLR) (6 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6847 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE E025 OF 2023  
RE ABURILI, J  
JUNE 6, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**BENJAMIN OMONDI OTIENO ..... ACCUSED**

**RULING**

1. The accused person Benjamin Omondi Otieno is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. Particulars of the offence are that on the 3<sup>rd</sup> day of July 2023 at around 6.00pm in Mbalawandu village, West Karateng Sub-location in Kisumu West Sub-county within Kisumu County, the accused murdered Marion Atieno Ochieng.
3. The accused pleaded not Guilty to the charge and the prosecution has called 15 witnesses in support of the charge/information dated 17<sup>th</sup> October 2023 and produced exhibits.
4. At the end of the prosecution's case which they have closed, the question is whether the prosecution has established a *prima facie* case to warrant this court place the accused person on his defence.
5. Without delving into the merits of the case, and upon considering the evidence of the 15 prosecution witnesses, I am satisfied that a *prima facie* case is established against the accused person who is hereby found with a case to answer for the alleged murder of Marion Atieno Ochieng.
6. Accordingly, the accused person Benjamin Omondi Otieno is hereby placed on his defence.
7. The provisions of Section 306 (2) of the [Criminal Procedure Code](#) as read with Article 50(2) (i) (k) (l) of [Constitution](#) are read and explained to the accused in the presence of his advocate Mr. Awuonda.
8. I so order.



**DATED, SIGNED AND DELIVERED AT KISUMU THIS 6<sup>TH</sup> DAY OF JUNE, 2024**

**R. E. ABURILI**

**JUDGE**

