



**Republic v LOO & 3 others (Criminal Case 16 of 2018)
[2023] KEHC 3137 (KLR) (13 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3137 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE 16 OF 2018
RE ABURILI, J
APRIL 13, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

LOO 1ST ACCUSED

EO 2ND ACCUSED

DO 3RD ACCUSED

PO 4TH ACCUSED

RULING

1. This matter was initiated in 2018 against the four accused persons LOO, EO, DO and PO who were all jointly charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*.
2. However, the court record shows that the four were then minors and upon being remanded at Kisumu Remand Home, and later at Kodiaga Remand due to their unbecoming behaviour at the initial facility, they all escaped from lawful custody on 2nd November 2019 and have never been rearrested despite efforts by Ahero Police Station as per their letter dated 29th June 2022 addressed to court.
3. It has since emerged that they are of age and left their abode, the custody of their parents and close family members.
4. It will therefore not be possible to continue holding this file open when there is no accused person to be prosecuted.



5. The ODPP has through Senior Assistant Director of Public Prosecutions Ms Catherine Mwaniki filed a Nolle Prosequi dated 3rd April 2023 pursuant to Article 157 (6) (c) and (9) of *the Constitution* terminating these murder proceedings.
6. As the accused persons are at large, and pending their possible arrest in future to face the same charge of murder, I hereby grant leave to the prosecution to enter Nolle Prosequi against all the four (4) accused persons herein LOO, EO, DO and PO and order that their prosecution for the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code shall not continue.
7. This file is accordingly closed.
8. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 13TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

