



**State v Odiero (Criminal Case E007 of 2023) [2023] KEHC 18993 (KLR) (21 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18993 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E007 OF 2023  
DO OGEMBO, J  
JUNE 21, 2023**

**BETWEEN**

**STATE ..... PROSECUTION**

**AND**

**CHARLES OKOTH ODIERO ..... ACCUSED**

**RULING**

1. The accused Charles Okoth Odiero was charged before this court with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. When this case came up for hearing on June 20, 2023, prosecuting counsel, Ms Mumu, stood up to address the court. Counsel submitted that when the decision to charge the accused was made, the prosecution did not have the report from the Government chemist. That the accused was arrested by members of the public because he was putting on gumboots that had blood stains assumed to have been of the deceased. That the accused had himself explained that he had been from hunting and that the blood stains was of an animal he had killed.
2. Further, that the gum boots were taken to the Government chemist for examination, that on examination, it has been determined that the blood stains on the gum boots do not match with the DNA profile generated from the accused person or the deceased person. The said Analyst report was produced and handed over to the court for consideration.
3. The Prosecution have applied under Article 157 (6) (c) and Article 157 (9) of the *Constitution*, to have this case terminated. The defence have not opposed this application.
4. I have considered this application of the prosecution side. I have also perused the analyst report dated May 12, 2023 confirming the position of the prosecution. Article 157 (6) (c) provides;

' The Director of Public Prosecutions shall exercise powers of Prosecution and May -

- (c) Subject to Clauses (7) and (8) discontinue at any stage before judgement is delivered, any criminal proceedings instituted by the Director of Public



Prosecutions or taken over by the Director of Public Prosecutions under Paragraph (b). *The Constitution* therefore bestows on the Director of Public Prosecutions the authority to discontinue criminal cases instituted by it or taken over by it.'

5. In our instant case, the application of the Prosecution is based on the findings of the Government Analyst as contained in the report dated May 12, 2023 and produced in court. The defence have not objected to the Prosecution's application.
6. In the circumstances, I allow the application of the Prosecution. This case is accordingly discontinued on the application of the Prosecution.

It is so ordered.

**D. O. OGEMBO**

**JUDGE**

**21<sup>ST</sup> JUNE, 2023**

**Court:**

Ruling read out in open court in the presence of the accused, Ms. Akinyi for accused and Ms. Mumu for the State.

**D. O. OGEMBO**

**JUDGE**

**21<sup>ST</sup> JUNE, 2023**

