



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL CASE NO. 10 OF 2019 [MURDER]

STATE.....PROSECUTOR

VERSUS

1. GORDON OJWANG OJWANG.....1ST ACCUSED

2. JOSEPH ALOO ABONGO.....2ND ACCUSED

RULING

1. The accused persons herein Gordon Ojwang Ojwang and Joseph Aloo Abongo are charged with the offence of **Murder Contrary to Section 203 as read with Section 204 of the Penal Code.**
2. The particulars of the charge as per Information dated 13.5.2019 are that on the night of 27 and 28 of April, 2019 at Ogoya Village in Nyangoma Sub-Location, Central Sakwa Location in Bondo Sub-County within Siaya County, jointly murdered one Willis Ngode Orwa. Plea was taken on 20.5.2019 and the Accused persons pleaded not guilty before Hon. F. A. Ochieng – J. at Kisumu. Today was for fixing of a suitable hearing date in the new term.
3. The Prosecution has filed a ***Nolle Prosequi*** seeking to discontinue the prosecution of the accused persons under **Article 157(6) (C) and 9 of the Constitution.**
4. The accused persons' Counsel Mr. Okello holding brief for Mr. Onsongo Advocate on behalf of the accused persons has no objection to such termination of these proceedings.
5. In his application, the prosecution Counsel Mr. D. Okachi submitted that he has perused witness statements and found that there is no sufficient evidence to continue with the prosecution of the accused and that he wishes to return the file to the investigators to carry out further investigations in the matter.
6. I have considered the application for ***nolle prosequi*** and the fact that the accused do not oppose the same.
7. In addition, the matter is fresh and so the prosecution have not taken a long time to make their decision.
8. I find no prejudice occasioned as further investigations will be undertaken in the matter to determine with precision the circumstances under which the deceased met his death.
9. In the premises and in accordance with **Article 157 (8) of the Constitution**, I hereby grant permission to the Office of the Director of Public Prosecution to discontinue these proceedings which are hereby forthwith discontinued. The two accused persons **Gordon Ojwang Ojwang** and **Joseph Aloo Abongo** are hereby discharged.
10. Orders accordingly.

Dated, Signed and Delivered at Siaya this 4th day of December, 2019

R.E. ABURILI

JUDGE

In the presence of:

Mr. David Okachi Senior Principal Prosecution Counsel for the State

Mr. Okello Advocate h/b for Mr. Onsongo Advocate for the Accused persons

Accused persons present

CA: Brenda & Modestar