

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL CASE NO. 8 OF 2014

REPUBLIC PROSECUTION

VERSUS

1. PAUL MWEMA MWENDWA 1ST DEFENDANT

2. MWINZI MULYUNGI 2ND DEFENDANT

RULING

The Prosecuting Counsel Mr. Okemwa on behalf of the Director of Public Prosecutions has requested the court's permission to discontinue the case under section 25 (1) of the Office of the Director of Public Prosecutions Act 2013. He has given the reasons that it is apparent that the wrong persons were charged in court. He has also stated that the statements from witnesses disclose a lot of discrepancies and confusion. He has further stated that the decision to request for discontinuance of the prosecution was reached after extensive consultations in their office.

Mr. Nyasani for the accused stated that it had taken unduly long for the DPP's office to make the decision to discontinue the case as this was a 2014 matter. In addition, his client had been in custody for a year or so. He requested to be provided with copy of the proceedings herein.

Section 25 (1) of the Office of the Director of Public Prosecution Act 2013 provides that the Director may with the permission of the court discontinue a prosecution at any stage before delivery of judgment. Hearing of the case has not commenced.

In my view, the Director has given sufficient reasons herein to support the request for discontinuance of the prosecution. I therefore grant the permission sought and mark the prosecution herein as discontinued.

I also order that the defence will be supplied with certified copy of the proceedings herein, subject to payment of any applicable copying charges.

Dated and delivered at Garissa this 7th day of May, 2015

GEORGE DULU

JUDGE