

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 1 OF 2011

STATE.....PROSECUTOR

VERSUS

JOEL OMBACHO KIRIAGO.....ACCUSED

RULING

1. It is true that the accused has been in custody for a very long time. It is, however, also, true that his case was heard and concluded. He then appealed to the court of Appeal. The court of Appeal allowed the appeal by the appelland and ordered for re-trial. In other words the accused awaits a re-trial of his case.
2. The prosecutor must endeavour to organize their witnesses if murder cases are to be speeded up. It is not enough to utter, repeatedly, that investigating officer did not avail witnesses. Even one or two witnesses if available, is progress of the trial, rather than no witnesses, no hearing.
3. This the prosecution must, in future come with credible explanations why there are no witnesses. The court will not, in future, entertain casual explanation.
4. The matter to be mentioned to take a hearing date on 1st December, 2014.

Ruling dated and delivered at Kisii this 3rd day of November, 2014.

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Magare holding brief for Omwega for the applicant.

Imbali for the respondent

Edwin Court Clerk.