

REPUBLIC OF KENYA

High Court at Kisumu

Miscellaneous Criminal Case 95 of 2012

ERICK OKINYO NYAKINAACCUSED

VERSUS

REPUBLICPROSECUTOR

RULING

The applicants application dated 27th November 2012 pray that the Criminal case number 472 of 2011 Kisumu be transferred to another court for retrial and that his bond be reinstated. His affidavit sworn on 26th November 2012 depones that he was never supplied with the witnesses statements during the hearing and he disputed the Ruling of 4th September 2012.

The State did not oppose the application.

I have perused the lower court's proceedings as well as the Ruling. I notice that the applicant's bond was cancelled for failing to attend court on 13th March 2012 and he only came back on 16th April 2012. He however offered no explanation or evidence to back up his indisposition.

This court at this juncture is not required to deal with this matter as though it is an appeal. The applicant has demanded a retrial.

I however on the face of the proceedings already undertaken see no reasons to order a retrial. He failed on four (4) occasions to offer any defence and the court was left with no other option but to close the defence case.

For now I do not see any merit in the application. The applicant should go back and finalize his case and if dissatisfied he can proceed to file his appeal to this court .

In the interest of justice however I shall order that his bond be reinstated as before .

Orders accordingly.

Dated, signed and delivered at Kisumu this 6th day of May 2013.

H.K. CHEMITEI

JUDGE

In the presence of:

.....for appellant

.....for the respondents

HKC/aao