



**Republic v Were (Anti-Corruption and Economic Crimes Case
E008 of 2025) [2025] KEMC 116 (KLR) (26 May 2025) (Judgment)**

Neutral citation: [2025] KEMC 116 (KLR)

**REPUBLIC OF KENYA
IN THE CHIEF MAGISTRATE'S COURT (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES CASE E008 OF 2025**

CN ONDIEKI, SPM

MAY 26, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER ONYANGO WERE ACCUSED

JUDGMENT

1. This Judgment straddles the fourth, fifth and sixth steps highlighted in the directions dated 23rd May 2025.
2. On 6th February 2025, the Accused was arraigned in Court and charged with seven counts of offences as follows:
 - a. Under Count I, the Accused was charged with the offence described as deceiving principal contrary to section 41(2) as read with section 48 of the *Anti-Corruption and Economic Crimes Act*, Cap 65 of the Laws of Kenya (hereinafter "ACECA"). The particulars of the offence are that on or about 27th October 2023 at the Independent Electoral and Boundaries Commission (hereinafter "IEBC") in Nairobi County within the Republic of Kenya, being a public officer employed by IEBC as an Assistant Elections Officer, to the detriment of the IEBC, he knowingly and intentionally deceived his principal by stating in his letter addressed to the CEO IEBC that he is a holder of a Bachelor of Business Management (Human Resource Management Option) Degree Certificate, Serial Number 170335 and that the Graduation Booklet of the 17th Graduation held on 17th December bears his name in response to a show cause letter, which information he knew to be false.
 - b. Under Count II, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya,



with intent to deceive, the Accused forged a Bachelor of Business Management (Human Resource Management Option) Degree Certificate, Serial Number 170335 in the name of Were Peter Onyango purporting it to be a genuine document issued to him by Masinde Muliro University of Science and Technology on 17th December 2021, a fact he knew to be false.

- c. Under Count III, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on or about 31st October 2022, at IEBC in Nairobi County, the Accused knowingly and fraudulently uttered a false document namely a Bachelor of Business Management (Human Resource Management Option) Degree Certificate, Serial Number 170335 in the name of Were Peter Onyango purporting it to be a genuine document issued to him by Masinde Muliro University of Science and Technology on 17th December 2021, a fact he knew to be false.
 - d. Under Count IV, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya, with intent to deceive, the Accused forged undergraduate academic transcripts in the name of Were Peter Onyango, registration number BBM/08971/17 for years 1-4, purporting them to be genuine documents issued to him by Masinde Muliro University of Science and Technology on 9th November 2021, a fact he knew to be false.
 - e. Under Count V, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on or about 31st October 2022, at IEBC in Nairobi County, the Accused knowingly and fraudulently uttered a false document namely undergraduate academic transcripts in the name of Were Peter Onyango, registration number BBM/08971/17 for years 1-4, purporting them to be genuine documents issued to him by Masinde Muliro University of Science and Technology on 9th November 2021, a fact he knew to be false.
 - f. Under Count VI, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya, with intent to deceive, the Accused forged a Graduation Booklet, purporting it to be a genuine document issued to him by Masinde Muliro University of Science and Technology on 9th November 2021, a fact he knew to be false.
 - g. Under Count VII, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the *Penal Code*, Cap 63 of the Laws of Kenya. The particulars of the offence are that on or about 31st October 2022, at IEBC in Nairobi County, the Accused knowingly and fraudulently uttered a false document namely a Graduation Booklet bearing the name the name of Were Peter Onyango purporting it to be a genuine document issued to him by Masinde Muliro University of Science and Technology on 17th December 2021, a fact he knew to be false.
3. On 23rd May 2025, the learned prosecution counsel, the Accused and learned counsel watching brief for EACC, Ms. Wanjohi, intimated to this Court that parties have since entered into a Plea Agreement in this matter and the Court issued directions accordingly.



4. In accord with step 1 pursuant to section 137G of the CPC - outlined in the said Directions dated 23rd May 2025 - this Court did examine the Accused and was satisfied that at the time the agreement was entered into, the Accused was competent, of sound mind and acted voluntarily.
5. In accord with step 2 pursuant to section 137F of the CPC - outlined in the said Directions dated 23rd May 2025 - before recording a plea agreement, this Court did not only inform the Accused but was also satisfied that the Accused understood his rights.
6. In accord with step 3 pursuant to section 137H(1)(a) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018 - outlined in the said Directions dated 23rd May 2025 – this Court permitted the prosecution to lay the factual basis of the Plea Agreement after which the Accused was granted an opportunity to admit or dispute the facts. In this regard, the Accused admitted the truth and factual basis of all the counts.
7. In accord with step 4 pursuant to sections 137H(1) and 137J of the CPC – outlined in the directions dated 23rd May 2025 – this Court turns to consider the Plea Agreement and either accept or reject it. Either way, this Court must assign reasons for acceptance or rejection thereof.
8. Acceptance of the Plea Agreement constitutes a Judgment of the Court and what logically follows after the Judgment is a sentence. See the implication carried in the marginal note of section 137L of the CPC. See also section 137H(2) of the CPC which provides that “Where a plea agreement entered into in accordance with section 137A(a) is accepted by the Court in accordance with this section, the Court shall proceed to convict an Accused person accordingly.”
9. Having: (i) scrupulously scrutinized and considered the Plea Agreement dated 23rd May 2025 between the Director of Public Prosecutions and the Accused, pursuant to section 137H of the CPC, which agreement was entered on the strength of sections 137A and 137B of the CPC; (ii) further taken into account the fact that upon laying of the factual basis of the Plea Agreement by learned Prosecution Counsel pursuant to the obligation housed under section 137H(1)(a) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018, the Accused admitted the truth and factual basis of all the counts; (iii) been satisfied that at the time the agreement was entered into, the Accused was competent, of sound mind and acted voluntarily; and (iv) not only inform the Accused but was also satisfied that the Accused understood his rights, this Court is persuaded that the Plea Agreement has passed not only the legality test contemplated of such Agreements under Article 159(2) (c) of the Constitution and sections 137A-137O of the CPC, but also the consensual test contemplated by sections 137H(1)(a) of the CPC read with rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018 and section 137G of the CPC.
10. Accordingly, this Court adopts it as a Judgment of this Court.
11. This adoption - for purposes of section 137H(1) of the CPC - signifies the acceptance of the Plea Agreement by this Court and accordingly incorporates the Plea Agreement into the record of this Court in accord with section 137H(1)(c) of the CPC.
12. For avoidance of doubt, in accordance with section 137H(b) of the CPC, this Plea Agreement is henceforth binding upon the parties thereto. This Court informs the Accused that just like in the civil process where such judgments are deemed final unless set aside on account of a factor which is capable of vitiating a contract, in the criminal process too, such judgments are final and not amenable to appeal, with the exception of extent or legality of the sentence. Section 137L of the CPC makes provision for the finality of such judgements as follows: “(1) Subject to subsection (2), the sentence passed by a Court under this Part shall be final and no appeal shall lie therefrom except as to the extent or legality



of the sentence imposed. (2) Notwithstanding subsection (1), the Director of Public Prosecutions, in the public interest and the orderly administration of justice, or the Accused person, may apply to the Court which passed the sentence to have the conviction and sentence procured pursuant to a plea agreement set aside on the grounds of fraud or misrepresentation. (3) Where a conviction or sentence has been set aside, under subsection (2), the provisions of section 137J shall apply mutatis mutandis.”

13. Accordingly – Counts II, IV and VI having been withdrawn by the DPP under section 137A(1)(b) of the CPC, in accord with step 5 pursuant to section 137H(2) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) [Rules No. 47 of 2018](#) - this Court proceeds to record a plea of guilty on Counts I, III, V and VII as agreed in the plea agreement.
14. Also, in this Judgment, in accord with step 6 pursuant to section 137H(2) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules, No. 47 of 2018, this Court proceeds to convict the Accused for Counts I, III, V and VII as agreed in the plea agreement for the following offences:
 - a. deceiving principal contrary to section 41(2) as read with section 48 of the [Anti-Corruption and Economic Crimes Act](#), Cap 65 of the Laws of Kenya (hereinafter “ACECA”) as charged under Count I.
 - b. uttering a false document contrary to section 353 of the [Penal Code](#), Cap 63 of the Laws of Kenya as charged under Count III.
 - c. uttering a false document contrary to section 353 of the [Penal Code](#), Cap 63 of the Laws of Kenya as charged under Count V.
 - d. uttering a false document contrary to section 353 of the [Penal Code](#), Cap 63 of the Laws of Kenya as charged under Count VII.

DELIVERED, SIGNED AND DATED IN OPEN COURT AT MILIMANI ANTI-CORRUPTION COURT THIS 26TH DAY OF MAY, 2025

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C.N. ONDIEKI

PRINCIPAL MAGISTRATE

In the presence of:

The Accused (appearing pro se)

Prosecution Counsel: Mr. Ogallo

Ms. Wanjohi watching brief for EACC

Court Assistant: Ms. Mutave

