

REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATE’S COURT AT HOMA BAY

ELECTION PETITION NO: 1 OF 2017

ODONGO VICTOR ROBERT.....PETITIONER

VERSUS

INDEPENDENT ELECTORAL & BOUNDARIES

COMMISSION.....1ST RESPONDENT

THE RETURNING OFFICER KAGAN WARD

EZEKIEL JUMA OTIENO.....2ND RESPONDENT

ONYANGO PHILEMON.....3RD RESPONDENT

RULING

The Respondents have opposed the production of copies of the form 32 A, death certificates and burial permits as exhibits on the ground that they can only be produced by the makers.

I have considered the objectors and the responses by the petitioner. I have noted that the petitioner had issued a notice to produce pursuant to sec 69 of the Evidence Act to the 1st and 2nd Respondents. The same has not been responded to up to now. Having failed to respond and or produce the originals they cannot now turn around and object to the production of the copies. Accordingly, with respect to form 32 A, I do direct that this be produced as Exh 1 (bundle).

With respect to the death certificate and the burial permits, I note that the same have been certified by an advocate. Ordinarily a document should be certified as an original by the maker and such a document. I do not think the advocate who certified the disputed documents was the maker. Accordingly, I reject the application that the certificate of death and burial permit be produced as an exhibit. They can only be produced by the makers.

T.OBUTU SPM

1/11/2017