



**Republic v Kimathi (Criminal Case 67 of 2017)  
[2025] KEHC 14872 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14872 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL CASE 67 OF 2017  
SM GITHINJI, J  
OCTOBER 15, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**FESTUS KIMATHI ..... ACCUSED**

**RULING**

1. This is an old case of the year 2017. It has been in court for more than 8 years. Not a single witness has ever given evidence in this case. The accused did not arrest himself, but was arrested. He did not prefer the charges against himself but were preferred. By the state undertaking the said processes, they were indicating firmly to the court that they have evidence to support the charges and will avail it in court. For eight years, nothing has happened. This must be weighing heavily on the accused who have a weighty charge pending and on the cost of the many times he has attended court. It is a process which the court need to discourage or bring to a sounding stop. It is clear in law that justice delayed is justice denied. In this scenario, justice has been delayed and therefore denied. Which justice are we then pursuing now? Article 50 (1) on fair hearing, guarantees an accused person to a hearing within a reasonable time. This matter has been inordinately delayed. If prosecution have not been able to avail witnesses or a witness in eight years, having been availed more than enough opportunities to do so, what makes them believe that one more chance will play magic and they be able to avail witnesses? Such may revisit further unnecessary suffering to the suspect of which the court need bring to an end.
2. I gave a last adjournment on 18/3/2025. Today is 15/10/2025. For a period of about 7 months nothing has been done to secure attendance of witnesses. They deserve no more chance. The application for adjournment lacks merit and is hereby dismissed.

Prosecution:

I wish to enter a Nolle prosequi. I can have a date in a weeks time.



Court:

3. It is not desirable to bring the accused any more time to court for this matter. Nolle prosequi given the circumstances of this case will not be in the interests of justice. The matter need be brought to a reliable and promising end. The prosecution should either proceed or otherwise close the case to enable an acquittal.

S.m. Githinji

Judge

15/10/2025

Prosecution:

We wish close our case.

Court

4. Having no witness called in a period of 8 years, avails not even a Scintilla of evidence in support of the charge against the accused person. He is therefore acquitted of the offence under Section 210 of the C.P.C for want of evidence.

Surety is discharged.

**DATED AND DELIVERED AT MERU THIS 15<sup>TH</sup> OCTOBER, 2025**

**S.M. GITHINJI**

**JUDGE**

**15/10/2025**

