

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
CRIMINAL CASE NO. E001 OF 2025**

REPUBLIC.....

PROSECUTION

VERSUS

JOSEPH MULONGO KAKAI.

.....RESPONDENT

RULING

1. The prosecuting counsel Ms Kibet had earlier on indicated that she has 3 witnesses one in open court and 2 were to appear virtually. So far one witness a medical doctor has testified and the other two witnesses who were to appear virtually are not on the court's platform. Ms Kibet has therefore applied for an adjournment.
2. Mr Masiga for the defence has opposed the application for an adjournment on grounds that the application be disallowed and in the event the same is allowed then it should be marked as the last adjournment.
3. On rejoinder Ms Kibet has submitted that Mr Masiga has been economical with the truth and that on 2.7.2025 this case was adjourned at the instance of the defence when the state had two witnesses.
4. I have perused the court record and I have confirmed that on 2.7.2025 this case was indeed adjourned at the instance of the defence and subsequently it was mentioned on 29.7.2025 when a medical report prepared by Dr Oscar Makatta of Bungoma county Referral hospital declared the accused mentally fit to stand trial.
5. In light of the facts aforesaid it is incorrect for the defence to submit that the state is delaying the proceedings herein. It is noteworthy that when this

case was called out 9.09 am today Mr Masiga was absent wherefore this court placed the file aside and endeavored to trace him. I therefore find no merit in the opposition put forth by the defence. The prosecution case is hereby adjourned to 26.1.2026.

Delivered, signed, and dated at Bungoma this 17th day of November, 2025.

MWANAISHA S. SHARIFF

JUDGE.