REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CRIMINAL CASE NO. E014 OF 2023

REPUBLIC.....PROSECUTION COUNSEL

VERSUS

JARED OTIENO OTIENO..... .....ACCUSED

RULING

1. Having considered the evidence of the twelve (12) prosecution witnesses, the exhibits produced and the record in its entirety, I find that a *prima facie* case has been established against the accused person and he is hereby placed on his defence.

2. The authorities of ***Festo Wandera Mukando v Republic [1980] KLR 103*** and ***Republic v Kevin Owuor Abith alias Opudo [2022] eKLR*** provide the jurisprudence that it is inadvisable for the court to give the reasons as to why an accused person is placed on his defence. I will therefore not give the reasons for my findings above.

3. In ***Festo Wandera Mukando,*** the Court stated thus:

> ***"…we draw attention to the <u>inadvisability of giving reasons for holding that an accused has a case to answer.</u> It can prove embarrassing to the court and, in an extreme case, may require an appellate court to set aside an otherwise sound judgment. Where a submission of "no case" to answer is rejected, the court should say no more than that it is. It is otherwise where the submission is upheld when reasons should be given; for then that is the end to the case or the count or counts concerned."*** (Emphasis mine).

4. In ***<u>Kevin Owuor Abith alias Opudo v Republic [2022] eKLR,</u>*** it was held that:

> ***"The trial court is however <u>cautioned that at this stage, it should not make definitive findings</u> should it conclude that the accused has a case to answer."*** (Emphasis mine).

5. This matter will be mentioned on 16th February, 2026 for directions under *Section 306(2)* of the *Criminal Procedure Code.*

DELIVERED, DATED and SIGNED this 15th day of December, 2025.

JOE M. OMIDO

JUDGE

ACCUSED: **Present.**

PROSECUTION COUNSEL: **Ms. Muema.**

DEFENCE COUNSEL: **Ms. Ogola** for **Mr. Emukule.**

COURT ASSISTANT: **Mr. Ngoge** & **Mr. Juma.**