



**Republic v Wandera (Criminal Case E003 of 2025)
[2026] KEHC 973 (KLR) (2 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 973 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL CASE E003 OF 2025
WM MUSYOKA, J
FEBRUARY 2, 2026**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSPHAT OUMA WANDERA ACCUSED

RULING

1. This matter is part-heard. 6 witnesses have so far testified. The last witness testified on 9th October 2025. This ruling is on an application, dated 8th October 2025. It is not clear, from the face of the application, as to when it was lodged in court. It seeks that the accused person be escorted to the Kisumu Government Chemist, and a buccal swab be extracted from the accused, for comparison with A171/2024 for analysis.
2. In the affidavit, of Police Corporal Felician Maru, the Investigating Officer, there were 3 samples that were proposed to be subjected to DNA testing. One from the accused, one from the deceased, and the third being dried blood collected from the home of the accused, where the deceased was allegedly killed.
3. The application was argued orally, on 2nd December 2025. Mr. Otieno, the Advocate for the accused, opposed the application. He argued that it was coming too late in the day, after nearly all the prosecution witnesses had testified.
4. The accused was first arraigned in court on 4th February 2025, before the Deputy Registrar of the court, and plea was taken on 12th February 2025. His blood samples should have had been taken by then. Alternatively, the issue should have been raised by then, at those appearances.
5. Raising the issue 8 months later in October 2025, after 6 witnesses had already testified, was obviously too late in the day. No explanation has been given for the 8 months' delay.



6. It was alleged that the accused had fled, after the murder, and was apprehended later. That is not a valid excuse. Upon his apprehension, if the prosecution was intent on subjecting blood or other samples, from him, to DNA, should have taken him to the Government laboratory before he was arraigned for plea taking, just the way they took him to the psychiatrist, at Siaya, for mental assessment.
7. The prosecution had possession of the 2 samples from the deceased since the time autopsy was done on 28th July 2024, according to the affidavit in support. No explanation was offered, as to why that sample was never forwarded to the Government Chemist for testing, to compare it with the dried blood sample, which is said to have already been submitted for DNA analysis. The delay to submit the sample of the deceased cannot, sincerely, be connected to the accused.
8. I am not persuaded that there could be any merit in the application, dated 8th October 2025, and I hereby dismiss it.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 2ND DAY OF FEBRUARY 2026.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Onanda, instructed by the Office of the Director of Public Prosecutions, for the Republic.

Mr. Otieno, the Advocate for the accused person.

