



**Moi v Republic (Criminal Appeal E015 of 2024)  
[2025] KEHC 932 (KLR) (31 January 2025) (Judgment)**

Neutral citation: [2025] KEHC 932 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL APPEAL E015 OF 2024  
RE ABURILI, J  
JANUARY 31, 2025**

**BETWEEN**

**DUNCUN OKUMU MOI ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An appeal from the judgment, conviction and sentence in Kisumu CM SO. Case No. 546 of 2016 delivered on 13th March, 2024 by Hon. MAUREEN Nyigei, Principal Magistrate)*

**JUDGMENT**

1. The appellant herein Duncun Okumu Moi was charged with the offence of defilement contrary to section 8 (1) (3) of the *Sexual Offences Act* No. 3 of 2006. The particulars being that on the 6<sup>th</sup> August 2016 within Kisumu County, he intentionally and unlawfully penetrated the anus of DSO a child aged 12 years with his penis. The appellant also faced the alternative charge of committing an indecent act with a child contrary to section 11 (1) of the *Sexual Offences Act*.
2. The prosecution called eight (8) witnesses in support of its case against the appellant. The appellant on the other hand testified and called two witnesses.
3. In her judgement, the trial magistrate found that the prosecution had proved its case against the appellant beyond reasonable doubt. The trial magistrate convicted the appellant and subsequently sentenced the appellant to serve 20 years imprisonment.
4. Aggrieved by the conviction and sentence imposed, the appellant filed his petition of appeal dated 27<sup>th</sup> March 2024 raising the following grounds of appeal:
  1. The entire judgement is against the weight of evidence.



2. The Honourable magistrate erred in law and in fact when she failed to take into account the complainant's own confession to his mother that he needed pain killers because he was in pain having hurt himself while playing football.
  3. The Honourable magistrate erred in fact and in law when she held that the defence of alibi was not available to the appellant without explaining how soon after the commencement of the case the appellant was required to raise the defence of alibi.
  4. The Honourable trial court failed to appreciate that the complainant (PW1) was a young man whose healing process takes a very short time and to hold that the investigations that were launched some eleven weeks after the happening of the alleged sodomy the victim would still be in pain having not healed, and he would still be merely asking for Panadol to treat pain that occurred when, in his own words for hurt when playing football.
  5. The Honourable Court erred in fact and in law when she held that the inconsistencies that existed in the prosecution's case could not be construed in favour of the accused person meaning the appellant.
5. The appeal was canvassed by way of submissions.

### **The Appellant's Submissions**

6. It was the appellant's submission that he was not afforded a fair trial as the defence counsel was not provided with vital documents relating to phone records which he had sought and the court directed the same to be furnished to him.
7. The appellant further submitted that he raised his alibi at the point of arrest which the trial court failed to acknowledge and thus the said alibi was never tested thus the prosecution failed to prove its case and thus he should be acquitted.
8. The appellant submitted that there was no birth certificate produced neither was there an age assessment and that the magistrate only estimated the age of the complainant. It was further submitted that penetration was not proved.
9. The appellant submitted that the complainant was taken to hospital after 3 months where the doctor said that the tear was 8 years healing.
10. The appellant submitted that he was fixed as identification was not proved as the investigating officer testified that PW1 was lured in a house and attempted to be defiled.
11. It was further submitted that there were inconsistencies and contradictions in the evidence. He testified that the place of offence was not certain as he could not be at two places at the same time.
12. The appellant further submitted that the name of the complainant was not consistent from his testimony, his mother's testimony and the PRC form and thus his identification was not clear. Further, that the complainant's mother confirmed to court that the complainant was a liar.
13. The appellant further noted the inconsistencies in the PRC form and P3 form wherein the PRC form was filled on the 28<sup>th</sup> October 2016 while the P3 form provided that it was filled on the 28<sup>th</sup> August 2016.
14. The appellant further submitted that in the event that his appeal is dismissed, he prayed that his sentence be calculated from the date of the arrest.



## **The Respondent's Submissions**

15. Mr. Marete for the state submitted that he supported the conviction and sentence as the evidence was overwhelming. It was submitted that the age of the complainant was proved by the birth certificate and further that the complainant knew his age. Mr. Marete submitted that the court noted the complainant's intelligence when he testified.
16. On penetration, the state submitted that the complainant testified on how he was sodomised and the doctor confirmed a healing tear at the anal orifice. It was further submitted that the accused was identified by his victim.
17. Mr. Marete submitted that the appellant's defence was considered and disregarded correctly and further that the 20 years' imprisonment term imposed was lawful and warranted.

## **Analysis & Determination**

18. The role of the first appellate court is now well settled as was stated in the case of *Okeno v R* [1977] EALR 32 and later in *Mark Oiruri Mose v R* [2013] eKLR among other many decisions, that this Court is duty bound to revisit the evidence tendered before the trial court afresh, evaluate it, analyze it and reach its own independent conclusion on the matter but always bearing in mind that the trial court had the advantage of observing the demeanour of the witnesses and hearing them give evidence and give allowance for that.
19. Revisiting the evidence adduced before the trial court, PW1, the complainant was taken through a *voire dire* examination and found understanding of the nature of an oath and so he gave sworn testimony. It was his testimony that he used to go for football rally during the holidays in Nyalenda as he did in August 2016 and that on the material date, he was coached by the appellant. He testified that after training, the appellant informed him and 3 other players to take the used balls to his house where the appellant dismissed the other players and sent the complainant for mandazi.
20. The complainant testified that on his return, the appellant made him face down in a bent position, managed to pull down his trousers and took off his then the appellant pushed his penis into the complainant's anus. The complainant testified that the appellant did this severally after which the complainant went to his home but that he did not tell anyone until when the schools opened is when he told coach Evans and Irene.
21. It was the complainant's testimony that he was 12 years old at the time and that he was then taken to hospital at JOOTRH where he was examined and informed that he needed a P3.
22. In cross-examination, he reiterated that the appellant was his coach for the boys' group he used to play in, that he was born in 2004 as provided in his witness statement dated 28.10.2016 despite the fact that his birth certificate provided that he was born in 2002.
23. PW2, Linet Odidi Yogo, a child counsellor at the British Council testified that on 24.10.2016, she received information from a field officer Kenn Ogware who informed her that a child at Pandpieri had complained of having been defiled. She testified that they reached out to the child who was so emotional and who eventually revealed to them that he had been defiled by the school coach, the appellant while playing for a club.
24. PW2 reiterated the complainant's account of how the appellant defiled him and further added that the appellant only stopped defiling the complainant when the complainant informed him that he was the



- one to prepare lunch back at his home. It was her testimony that when they took the complainant to hospital, the doctor examining him stated that the complainant had an anal tear which was heavy.
25. In cross-examination, PW2 testified that the complainant stated that he had been defiled a week or two before the field officer called her and further that the complainant concealed the truth of the incident from his mother.
  26. PW3 KOO testified that on 22.10.2016 he was working for ACORD as a field officer and together with coaches, their work was to ensure registration, modalisation of participants, ensure weekly sessions took place, equipment and facilities took place. He testified that he was the child designate in Kisumu and in case of any child abuse, he would notify the Council without acting on it.
  27. It was his testimony that on 22.10.2016 he was made aware by one teacher/coach Mr. EK who had been made aware by one of the coaches that one of their participants had been abused. He testified that he made the British Council aware of the incident, spoke to the school and the complainant and forwarded the report to the Council. He identified the appellant as the one accused by the complainant.
  28. PW5 FNO, the complainant's mother testified that on the 28<sup>th</sup> October 2016 when children had closed school, she did not see his son but that he received a call to go to the stage where she met PW2 who informed her that something bad had happened to her son.
  29. It was her testimony that she had noticed that her son was not okay but that the son informed her that he felt pain due to playing football and that he refused to go to hospital and asked her to buy him Panadol for the pain.
  30. PW5 testified that the complainant later stated that it was his football coach who had sodomised him and that he later told her that he was scared and that is why he had not told her about the incident earlier.
  31. PW8 Dr. Ombok testified on behalf of Dr. Omondi who examined the complainant and who had since left JOOTRH for further studies. It was her testimony that Dr. Omondi filled the complainant's P3 form.
  32. It was her testimony that the complainant went for examination after changing clothes and reported to having been sexually assaulted by a person known to him with the person inserting his penis in his anus repeatedly. Dr. Ombok testified that the thorax and abdomen had a healing scar of a tear at the opening approximate age of the injury was 11 weeks She testified that the complainant preferred sitting on sides mostly crossing his legs. She testified that the external genital was normal and there was healing tear at the opening of the anal with no discharge seen. Dr. Ombok testified that there was definitely anal penetration in the presence of the scars and epithelial cells. She produced the P3 form dated 28.9.2016 as Exhibit 4.
  33. Dr. Ombok further produced the PRC form as Exhibit 2. She testified that there were healing tears at the complainant's anus on examination, that he had difficulties sitting, as he sat on his sides and further that he had numerous epithelial cells.
  34. In his defence, the accused testified as DW1, he denied committing the offence and stated that on the 6.8.2016 he organised and carried out a funds drive (harambee) for his football club, Power Boys after which he went home after 7pm where his brother was. He testified that he only came to know of the allegations against him when Kevin went to their training ground with police officers. The appellant prayed for the case against him to be dismissed. On being asked by the court, the appellant stated that the football tournament was held from 16.8.2016 and further that at the time he lived with his brother FO.



35. DW2, FO, the appellant's brother testified that on the 6.8.2016, a Saturday, he must have been at home and that the appellant used to leave the house early in the morning and return in the evening. He testified that in the evening, the appellant returned home alone.
36. DW3 COO testified that the appellant was his football coach and guardian and was the captain of Power Boys Football Club. He testified that he used to keep the footballs at his home which was near their training ground in Nyalenda. He further testified that on the 6.8.2016, they held a fundraiser for a tournament they were to attend in Nairobi.
37. In cross-examination, he admitted that he could not tell where the appellant went to after the fundraising as he was not living with the appellant.

### **Determination**

38. I have considered the appellant's grounds of appeal, the evidence adduced before the trial court as well as the submissions by both the appellant and the prosecution counsel appearing for the Respondent State. I find the following issues for determination:
  - a. Whether the appellant's constitutional rights were breached.
  - b. Whether the prosecution's case against the appellant herein was proved beyond reasonable doubt and
  - c. Whether the sentence imposed on the appellant should be calculated from the date of arrest

### **Whether the appellant's constitutional rights were breached**

39. The appellant complains that his constitutional rights were violated as the trial court failed to explain to give him vital documents to enable him carry out his defence including both voice and messages transacted through phones number 0711696XXX and 0776029XXX for the period between 1<sup>st</sup> August 2015 to 7<sup>th</sup> August 2016.
40. The law guarantees an accused person fundamental right to fair trial which should be given due regard unless and/or until he is found guilty. Since no guilt can be presumed until the charge is proved to the required standard, the court should not be viewed to be prejudiced against the accused; and, according to Article 50(2) (j) of *the Constitution* an accused person has the right to be informed in advance, of the evidence the prosecution intends to rely on and to have reasonable access to it. This is intended to ensure he prepares adequately for trial. The accused has the right to know what evidence the prosecutor has against him.
41. In the case of *Hussein Khalid & 16 Others v Attorney General & 2 Others* [2019] eKLR, the Supreme Court of Kenya stated that:

“... Indeed, it is salutary practice for the trial Court to satisfy itself that an accused person has all the reasonable facilities for his defence and the prosecution discloses all documents before commencement of trial. However, an accused person has an obligation to bring it to the attention of the Court that he has not been supplied with the witness statements (or any other prosecution documents) as ordered by the court. This minimum obligation on the accused person triggers the court's duty to ensure the documents are supplied before commencement of the trial.”



42. The apex court was persuaded by the holding of Ngugi J (as he was then), in the case of Republic v Francis Muniu Kariuki [2017] eKLR, where he stated that:

“Our case law has now established without a doubt that it is the Prosecution’s duty to provide the witness statements to an Accused Person and the Trial Court’s duty to ensure compliance with the constitutional requirement. Article 50(2) (c) and (j) are quite clear and the Courts have said as much: the right to adequate time and facilities for the preparation of one’s defence includes the right to receive beforehand the evidence that the Prosecution intends to adduce against the Accused. At a minimum, this right includes the right to receive a copy of the charge sheet, witness’ statements and copies of any documents which will be relied on at the trial.” (Emphasis mine)

43. At common law it has been argued that the prosecution should disclose both relevant and irrelevant material that the prosecution intends to rely on even if it may exonerate the accused person. In the case of Republic vs. Ward (1993)2 ALL ER 557, the Court of Appeal in England stated that:

“The prosecution’s duty at common law is to disclose to the defence all relevant material, i.e. evidence which tended either to weaken the prosecution case or to strengthen the defence, required the police to disclose to the prosecution all witness statements and the prosecution to supply copies of such witness statements to the defence or to allow them to inspect the statements and make copies unless there were good reasons for not doing so. Furthermore, the prosecution were under a duty, which continued during the pre-trial period and throughout the trial to disclose to the defence all relevant scientific material, whether it strengthened or weakened the prosecution case or assisted the defence case and whether or not the defence made a specific request for disclosure. Pursuant to that duty the prosecution were required to make available the records of all relevant experiments and tests carried out by expert witnesses...”

44. In the case of Antony Watuku Kibandi v Republic [2020] eKLR, Kimaru J (as he was then) was confronted by a similar situation and he had this to state:

“This court agrees with the prosecution that it cannot be compelled by this court to avail to the Applicant evidence which DOES NOT constitute part of the evidence that it will rely on to prosecute its case against the Applicant. The prosecution can only avail to the Applicant what it is under constitutional and legal obligation to provide. If the Applicant wishes to rely on other evidence which is not within the prosecution’s possession, he has to lay sufficient basis for the trial court to consider whether or not such other evidence has any relevance to the case at hand. The request for documentary evidence not in the possession of the prosecution cannot be granted. The Applicant is at liberty to pursue the avenues available to him under the Evidence Act to have the said documents adduced into evidence at the appropriate time.”

45. The prosecution is mandated to disclose evidence to be relied on in the course of the trial, a duty that should be discharged during pre-trial conference to enable the defence prepare for the case adequately and/or in the course of trial where the accused should be accorded time to interrogate and also have adequate time to prepare for the defence. Evidence to be relied on by the prosecution must be disclosed because it is the basis of the investigative process that results into charges being brought.



46. The provisions of Article 50 (2) (j) of *the Constitution* limit the duty of the prosecution to supply the defence with what is relevant and what it intends to rely on, the prosecution cannot be compelled to furnish what is not in its possession and what it shall not be relying on.
47. In the instant case, the appellant sought to be provided with documents which the prosecution was not relying on but on which the appellant sought to lay his defence. The Record reveals that the prosecution had been earlier ordered, vide a court order granted on the 9.12.2016, to furnish the defence with all documents to be relied on.
48. The voice and messages transacted through phones number 0711696XXX and 0776029XXX for the period between 1<sup>st</sup> August 2015 to 7<sup>th</sup> August 2016 were not documents to be relied on by the prosecution and therefore the prosecution was not under duty under Article 50 (2) (j) of *the Constitution* to provide to the defence such documents that were not part of the evidence that it intended to rely on to prove its case against the appellant herein. For that reason, I find and hold that this ground of appeal has no merit. It is dismissed.

#### **Whether the prosecution's case against the appellant herein was proved beyond reasonable doubt**

49. The appellant was charged with the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No 3 of 2006. To prove the offence charged, the prosecution must establish beyond reasonable doubt all the elements of defilement as was stated in the case of *George Opondo Olunga v Republic* [2016] eKLR that the ingredients of an offence of defilement are: identification or recognition of the offender, penetration and the age of the victim. The prosecution was therefore under a duty to establish or prove all the above elements of defilement beyond reasonable doubt. That duty or burden of proof does not shift to the accused person who is under no duty to adduce or challenge evidence adduced by the prosecution witnesses. The accused was also under no duty to give any self-incriminating evidence.
50. The appellant's identity is not in issue; he was the complainant's coach at Power Boys Football Club.
51. Regarding the complainant's age, he testified that he was 13 years old and in standard 7. A birth certificate that indicated that the complainant was born on 4.4.2002 was marked as MFI3 but it was never produced in evidence. The P3 and PRC forms produced as Exhibits 4 and 2 respectively indicated that the complainant was 12 years old when he was examined.
52. It is trite that in sexual offences, the age of the complainant is relevant for two purposes. Firstly, it is meant to prove that the complainant was below 18 years establishing the offence of defilement and secondly it establishes the age of the complainant for purposes of sentencing. See *Moses Nato Rapheal v Republic* (2015) eKLR.
53. It has been held that the age of the victim in sexual offences can also be proved by the direct evidence of parents or guardian or by observation by the court. In *Thomas Mwambu Wenyi v Republic* (2017) eKLR cited with approval *Francis Omuromi v Uganda*, Court of Appeal Criminal Appeal No. 2 of 2000 which held that:

“In defilement cases, medical evidence is paramount in determining the age of the victim and the doctor is the only person who would professionally determine the age of the victim in the absence of any other evidence. Apart from medical evidence age may be proved by birth certificate, the victim's parents or guardian and by observation and common sense.”



54. The importance of proving the age of the complainant in sexual offences was emphasized in *Alfayo Gombe Okello v Republic* (2010) eKLR where the Court stated that:

“In its wisdom, Parliament chose to categorize the gravity of that offence on the basis of the age of the victim, and consequently, the age of the victim is a necessary ingredient of the offence which ought to be proved beyond reasonable doubt. That must be so because dire consequences flow from proof of the offence under section 8(1)...proof of age of a victim is a crucial factor in cases of defilement under *Sexual Offences Act*. It must be proved failing which the offence will not have been proved beyond reasonable doubt in material particulars.”

55. In *Dominic Kibet v Republic Criminal Appeal No. 155 of 2011* it was held that:

“...while the Court may in certain circumstances rely on evidence other than an age assessment report, the onus of proving the age of the victim resides with the prosecution and a simple statement by the complainant as to their age does not in my view constitute such proof.”

56. In the case of *JOA v Republic* [2019] eKLR the court expressed itself as follows regarding the issue of age,

“Whereas proof of age of a complainant in defilement cases is a duty of the prosecution, to establish the age of the victim of defilement, it is equally trite law that proof of age or apparent age can be done by other means other than documentary evidence in the form of birth certificate, birth notification, baptismal card or the child Health or Immunization Card. In addition, proof of age can be by observation by the court, or testimony by the parent or guardian as long as the court believes that they are saying the truth and makes such observations on the apparent age of a victim. This position finds support in several cases: In *P M M v Republic* [2018] eKLR, Mwangi J stated as follows and I concur:

“Whilst it is true that the onus of proving the age of the victim resides with the prosecution and a simple statement by the complainant as to her age does not constitute such proof, the Court may in certain circumstances rely on evidence other than an age assessment report or birth certificate. In the case of *Musyoki Mwakavi v Republic* [2014] eKLR held that: \_

“...apart from medical evidence, the age of the complainant may also be proved by birth certificate, the victim’s parents or guardian and observation or common sense...”

57. In the instant case, the P3 form produced as Exhibit 4 and the findings of the doctor on the estimation of age of the complainant being 12 years in the P3 and PRC forms that he was born in 2004 were not challenged by any other contrary evidence during the trial and as such, I find that the age was proved to be 12 years. The complainant also told the court that he was in Standard 7 and that he was 12 years old at the time of being defiled. I thus find that this element of age of the complainant was proved beyond reasonable doubt.

58. On whether penetration was proved beyond reasonable doubt, 'Penetration' is defined under Section 2 of the *Sexual Offences Act* to mean 'the partial or complete insertion of the genital organs of a person into the genital organs of another person'. The complainant testified that the appellant tricked him that he was demonstrating first aid to him and ended up penetrating his anus repeatedly.



59. On his part, the appellant denied committing the offence and gave an alibi that on the date of the incident he carried out a fundraiser for his football team for a tournament that was to take place in Nairobi, that after the fundraiser, he went home where he stayed with his brother Francis and that he only became aware of the allegations on the 16<sup>th</sup> August 2016 when he was arrested.

60. Section 124 of the *Evidence Act* provides that:

'Notwithstanding the provisions of section 19 of the Oaths and Statutory Declaration Act, where the evidence of the victim admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other evidence in support thereof implicating him. Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person, if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth.'

61. The evidence of the complainant on the fact of her being defiled was corroborated by the testimony of the Doctor PW8 who produced the PRC and P3 forms as Exhibits 2 and 4 respectively. The PRC form provides that the complainant had a healing tear on the anus which was very tender to the touch and that the complainant was uncomfortable sitting straight and sat on his sides whereas the P3 form indicated a healing tear at the anal orifice and further that the complainant preferred sitting on his sides and not upright and mostly with legs crossed.

62. PW1, the complainant, was firm in his testimony that the appellant defiled him.

63. The appellant pleaded and submitted before this court that he raised his alibi at the point of arrest however from the record, the details of the appellant's alibi were not raised at all during his cross-examination of the prosecution witnesses.

64. This evidence adduced by the prosecution witnesses, compared with the defence by the appellant which was basically an alibi which was raised during the defence hearing and at no time did it come up during his cross-examination of the prosecution witnesses all point to the appellant as the individual who penetrated the complainant.

65. On allegations of material contradictions in the prosecution's case, I have considered evidence adduced by the witnesses for the prosecution as a whole and in my view, I find no material contradictions as alleged by the appellant in this appeal. The appellant focused on the P3 form copy which he produced as defence exhibit with yellow markings showing some blank spaces. However, the prosecution produced the original P3 form and the doctor testified on the same. The blanks as highlighted in my view do not make the P3 form or evidence of the minor materially contradictory or inconsistent. Neither do they reflect that the appellant was framed with the offence of defilement.

66. Furthermore, the Court of Appeal in the case of *Richard Munene v Republic* [2018] eKLR stated as follows on contradictions in evidence:

'It is a settled principle of law however, that it is not every trifling contradiction or inconsistency in the evidence of the prosecution witness that will be fatal to its case. It is only when such inconsistencies or contradictions are substantial and fundamental to the main issues in question and thus necessarily creates some doubt in the mind of the trial court that an accused person will be entitled to benefit from it.'



67. Accordingly, in this case, I find that the assertions that the prosecution evidence was contradictory was devoid of any merit. There was no material contradiction in the prosecution case as to prejudice the appellant or render his conviction unsound and unsafe. I therefore find that the prosecution proved the element of penetration beyond reasonable doubt.
68. On the whole, I find and hold that the prosecution proved its case beyond reasonable doubt against the appellant on the charge of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No 3 of 2006 and that the conviction of the appellant for the said offence was safe and sound.

**Whether the 20 years imprisonment imposed on the appellant should be calculated from the date of arrest**

69. The appellant pleaded and submitted before this court that in the event the court upholds his conviction, his sentence ought to be considered from the date of his arrest.
70. The appellant herein was sentenced to serve 20 years' imprisonment in line with the provisions of section 8(3) of the *Sexual Offences Act*.
71. Section 333(2) Criminal Procedure Code provides that the computation of the sentence ought to include the period the Accused person was in custody during hearing and determination of the case before sentence was meted out.
72. In the instant case the appellant was arrested on the 28.10.2016 and a bond of Kshs. 100,000 with a similar surety granted on the 31.10.2016. The record reveals that the appellant's bond was approved on the same day, the 31.10.2016 and the appellant had his trial conducted outside detention.
73. Accordingly, then the provisions of section 333(2) of the Criminal Procedure Code only applies for the 3 days he spent in custody between the 28.10.2016 and 31.10.2016.
74. The upshot of all the above is that the appellant's appeal against conviction is found to be devoid of merit. It is dismissed. The appeal against sentence partially succeeds to the extent of calculating the appellant's sentence to take into account the three days he was in custody from the date of arrest to the date that he was released on cash bail being from 28<sup>th</sup> October 2016 to 31<sup>st</sup> October 2016.
75. This file to be returned to the lower court with copy of the judgment which shall be printed and uploaded as well.
76. Signal to issue.
77. File is closed.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI VIA MICROSOFT TEAMS  
THIS 31<sup>ST</sup> DAY OF JANUARY, 2025**

**R.E. ABURILI**

**JUDGE**

