



Republic v Zadock (Criminal Case 2 of 2022) [2024] KEHC 717 (KLR) (31 January 2024) (Ruling)

Neutral citation: [2024] KEHC 717 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE 2 OF 2022
JN KAMAU, J
JANUARY 31, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

RUFUS AMWAI ZADOCK ACCUSED

RULING

1. On 29th November 2023, the Prosecution closed its case after calling a total of three (3) Prosecution witnesses.
2. Both the Accused person and the Prosecution did not file any Written Submissions on the question of whether or not the Accused persons had a case to answer. They made oral submissions in court.
3. The Accused person submitted that the Prosecution did not produce the Postmortem Report and/or call the maker of the same which showed that it had not established a prima facie case against him. On its part, the Prosecution pointed out that the Investigating Officer tendered in evidence the Postmortem Report.
4. A perusal of the proceedings of 25th October 2022 before P.J. Otieno J showed that counsel for the Accused person and the Prosecution agreed that the doctor and the witness who identified the body would not attend court but that the Statement of the said identifying witness and the Postmortem Report would be produced by the Investigating Officer.
5. Notably, on 29th November 2023, No 70146 PC David Kosgei (hereinafter referred to as “PW 3”) tendered in evidence the Postmortem Report dated 3rd June 2015. The same was marked as Prosecution Exhibit 1. The Accused person’s assertions that the Postmortem Report was not produced in court and/or that its maker was not called to testify thus fell by the wayside.



6. Accordingly, having carefully considered the evidence by the Prosecution witnesses, the court was of the opinion that a prima facie case had been established against the Accused person herein to warrant him being put on his Defence. He is hereby put on his defence.

7. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 31ST DAY OF JANUARY 2024

J. KAMAU

JUDGE

