



**Republic v Malemba & 2 others (Criminal Case 14 of 2010)
[2024] KEHC 10689 (KLR) (14 August 2024) (Sentence)**

Neutral citation: [2024] KEHC 10689 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL CASE 14 OF 2010
REA OUGO, J
AUGUST 14, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

RAMADHAN MUSA MALEMBBA 1ST ACCUSED

ABDULKADIR MIKA NATEMBEA 2ND ACCUSED

FERNANDES JUMA MALABA 3RD ACCUSED

SENTENCE

1. This is a ruling amended the Ruling dated the 21st July 2024. In the said Ruling I stated that the remand period and period served of about 14 years or more years shall be considered when computing the sentence of 30 years imprisonment.
2. On 19.7.2024 the Officer in Charge Kisumu Maximum Prisons SSP Patrick Karibu wrote a letter indicating that upon perusing their records they realized that the accused persons took plea on 08.03.2010 and not 01.11.2011 and that they were released on bond. On 16.02.2017 their bonds were canceled by the honorable court and they were convicted on 13.04.2017. That the period spent in remand by each accused person in remand custody before being released on bond was 1 (one) year, 7 months 24 days and the period between the date of conviction and date of bond cancellation is one month 28 days bringing it to a total of 1 (one) year, 8 months and 52 days. They have requested this court to check its records and to furnish them with the exact period each accused person spent in custody for their necessary action.
3. I have perused the court record and this is my finding. The accused persons with another who was acquitted, took plea on 24.10.2010 before this court and pleaded not guilty, before Justice Muchemi. Thereafter they were admitted to bond on 26.10.2011 but were released on 1.11.2011 upon approval of the bond terms. The case was heard and their bonds were canceled pending judgment on 16.2.2017.



The 1st and 4th appellant were taken into custody on 16.2.2017 and a warrant of arrest was issued against the 3rd appellant who was apprehended on 27.2.2107. Judgment was delivered on 13. 4. 2017. The accused persons were sentenced to suffer death. They were thereafter committed to jail. They appealed and their appeal was heard and resentence order issued by the Court of Appeal.

4. With the above background prisons are advised to commute the period they have been in remand/ custody and to take it into account as provided under Section 333 (2) of the *Criminal Procedure Code*. I therefore set aside the order that reads "the period served of about 14 years or more shall be considered". This court sentenced each accused person to serve 30 years imprisonment on 21.6.2024.

DATED, SIGNED, AND DELIVERED AT BUNGOMA ON THIS 14TH DAY OF AUGUST 2024.

R.E.OUGO

JUDGE

In the presence of:-

1st, 3rd & 4th Accused persons -All Present in person

Miss Matere - State Counsel

Wilkister -C/A

