



**Republic v Otiemo alias Smokie & another (Criminal Case E011 of 2023)
[2024] KEHC 16479 (KLR) (27 November 2024) (Sentence)**

Neutral citation: [2024] KEHC 16479 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E011 OF 2023
RE ABURILI, J
NOVEMBER 27, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

DOUGLAS OCHIENG OTIENO ALIAS SMOKIE 1ST ACCUSED

GEORGE OWUOR OMINO ALIAS APOTH 2ND ACCUSED

SENTENCE

1. The two accused persons herein Douglas Ochieng Otiemo alias Smokie and George Owuor Omino alias Apoth have been found Guilty of the offence of murder contrary to Section 203 of the [Penal Code](#) and convicted accordingly. They have mitigated and there is no past criminal record on them. They are first offenders. They plead for leniency. They have families that depend on them. They pray for non-custodial sentence.
2. I have considered the mitigations and circumstances under which the deceased lost his life, and the conduct of the accused persons who, after assaulting the deceased, prevented his brothers from taking him away for medical attention until the deceased's brothers had parted with money and that contributed to the death of the deceased.
3. No person has any right to take away the life of another and deterrent sentence is necessary for those who believe in mob injustice or taking the law into their own hands upon suspecting others to be criminals.
4. The deceased was not armed. He was harmless and he had permission of the owner of the home to go to that home, where he was unlawfully killed.
5. Punishment for murder is death upon conviction. However, applying the principles espoused in [Francis Muruatetu & Another v Republic](#) [2017] eKLR, the 2016 [Judiciary Sentencing Policy](#)



Guidelines, as revised in 2023, taking into account the mitigations by each of the accused persons, I hereby exercise discretion and sentence each of the two accused persons herein Douglas Ochieng Otieno alias Smokie and George Owuor Omino alias Apoth to each serve twenty-five (25) years in prison.

6. Right of Appeal is 14 days of today to the Court of Appeal is explained.
7. This file is closed.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KISUMU THIS 27TH DAY OF NOVEMBER, 2024

R. E. ABURILI

JUDGE

