



REPUBLIC OF KENYA



**Republic v Odeny (Criminal Case 22 of 2018) [2023] KEHC 19490 (KLR) (30 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19490 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE 22 OF 2018**

**RE ABURILI, J**

**JUNE 30, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**VINCENT OKOTH ODENY ..... ACCUSED**

**RULING**

1. The accused person herein Vincent Okoth Odeny is charged with the offence of murder of his elder brother Richard Otieno Odeny, which death took place on 16<sup>th</sup> day of September 2018 at Kanswa Sub-location, Nyangoma Location, Muhoroni Sub-county within Kisumu County.
2. He denied committing the offence. However, this court has found him guilty of the offence of murder.
3. Nonetheless, the accused was at the time of committing the murder of the deceased, labouring under a mental illness as per the mental Assessment Report filed in court and dated 9<sup>th</sup> October 2018.
4. He was committed to Mathari Hospital and vide a report dated 28<sup>th</sup> February 2019, Dr. Mucheru Wang'ombe, Medical Superintendent In-charge of Mathari National, Teaching and Referral Hospital wrote to the DPP informing the DPP that in his opinion, the accused had been certified to be capable of making his case/defence.
5. The ODPP gave directions of the intention to proceed under Section 163(2) of the [Criminal Procedure Code](#) and directed vide letter to this court dated 17<sup>th</sup> June 2019 that the ODPP wished to continue the criminal proceedings against the accused person.
6. It was on the basis of the above letter that on 25<sup>th</sup> July 2019, the plea was taken and the accused person pleaded not guilty to the charge of murder and the hearing proceeded.
7. The court therefore took plea knowing that the accused was fit to plead. Having convicted the accused who is of sound mind and having heard his mitigation, I hereby make the following orders before pronouncing an appropriate sentence: -



- a. That a Victim Impact statement be filed into court by the prosecution.
- b. That a Pre-sentence report be compiled and file into court by the Probation Officer.
- c. In respect of (a) above, the prosecution do procure the attendance of the wife, siblings and children of the deceased Richard Otieno Odeny to attend court on sentencing day.
- d. That the Victim Impact statement(s-) and Pre-Sentence Reports to be filed in court within twenty-one (21) days of today.
- e. This matter shall be for sentencing on 22<sup>nd</sup> September 2023.

8. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 30TH DAY OF JUNE, 2023**

**R. E. ABURILI**

**JUDGE**

