



**Republic v Musoga & 4 others (Criminal Case 56 of 2015)
[2023] KEHC 23467 (KLR) (29 September 2023) (Sentence)**

Neutral citation: [2023] KEHC 23467 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 56 OF 2015
PJO OTIENO, J
SEPTEMBER 29, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

DAVID MUSOGA 1ST ACCUSED

JOSHUA ANUSU 2ND ACCUSED

WYCLIFF RUYA 3RD ACCUSED

OSCAR AGUNINDA 4TH ACCUSED

JAPHET IMBALE YAYA 5TH ACCUSED

SENTENCE

1. The Court has anxiously considered the mitigation offered by the Accused through Counsel, stressing the age of the Accused persons, the fact that they have been in custody for the entire period pending trial and that they are remorseful.
2. The Court has equally considered the pre-sentence report and the recommendations made therein capturing the views of the Community, the local Administration and the family of the victims and give it the requisite weight as an opinion not necessarily binding upon the Court.
3. Considering the circumstances under which the offence was committed and the manner of commission disclosing extreme intolerance to once belief, the Court deems this as a case calling for deterrent sentence to keep away the accused from society with the hope that they will learn from the mistake, take advantage of correction opportunities in Prison and learn a livelihood skill.
4. Having taken into account the fact that the four have remained in custody since arrest on the September 29, 2015, I would have sentenced them to a period of eighteen (18) years imprisonment but I do



discount the period served pending trial and convict them to serve a prison term of ten (10) years. They have a right to appeal to the Court of Appeal within 14 days from today.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 29TH DAY OF SEPTEMBER, 2023.

PATRICK J. O. OTIENO

JUDGE

