



**Republic v Lukulu (Criminal Case 16 of 2014)
[2023] KEHC 27143 (KLR) (19 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 27143 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 16 OF 2014
SC CHIRCHIR, J
DECEMBER 19, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

GEOFFREY MANDELA LUKULU ACCUSED

SENTENCE

1. The accused herein was been charged with murder of one Benedict Lukulu Lituro, was tried and convicted of the crime. Thereafter a presentencing report was prepared and the matter placed before me for sentencing.
2. In mitigation, Mr. Kombwayo Advocate, on behalf of the accused, told the court that he was first offender; that at 28 years, he was a young person and should be given a chance to reform. He referred the court to the witnesses’ accounts which point to the fact that the Accused had been a victim of the deceased’s abuse and harassment. He stated that he was however remorseful. And finally, that his family was ready to take him back.
3. For the state, Ms. Osoro pointed out that the deceased killed his kin and the report indicates that one side of the family do not want him back. She urged the court to strike a balance between the interest of the accused and the victim’s family.
4. The presentencing report paints a family bedeviled by alcohol abuse and violence. The violence being mainly inflicted by the deceased. The report further states that the accused, though drunkard, was not known for violent tendencies.
5. I have considered the rival submissions, and the probation officer’s report. I have also considered the circumstances of the offence which indicate that the accused was the initially the aggressor. The accused had been threatened by the deceased. It is apparent that the accused was reacting to an on- going incidences of domestic violence. However, the accused overreacted and the force used, was excessive.



6. There is also evidence that both the deceased and the accused were drunk at the time. I have also considered the fact that the accused is a first offender and he is remorseful.
7. The accused was 18 years old at the time he committed the offence, he was barely an adult. He has spent close to 10 years in custody, which time, I hope has been one of introspection.
8. The victim was his father, and taking into consideration the family concerns as expressed in the presentencing report, am of the view that their sense of loss will not be assuaged by further incarceration of the accused. It appears to me that it will be aggravated instead. I am convinced that what the accused needs is rehabilitation, outside of, and not inside, the prison.
9. In view of the foregoing, I am of the considered view, and therefore find , that the period of close to 10 years already served is sufficient.
10. Therefore, I order that the accused be released forthwith, unless otherwise lawfully held.
11. Right of appeal 14 days.

DATED SIGNED AND DELIVERED AT KAKAMEGA THIS 19TH DAY OF DECEMBER 2023.

S. CHIRCHIR

JUDGE

