



**Republic v Saulo & another (Criminal Case E002/E096 of 2021)
[2023] KEHC 26777 (KLR) (19 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 26777 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E002/E096 OF 2021
SC CHIRCHIR, J
DECEMBER 19, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

AYUIB SAULO 1ST ACCUSED

PETER TINDI LUTA 2ND ACCUSED

SENTENCE

1. The accused persons were charged, tried and finally convicted of the murder of Phelix Ngala Shayo by Justice Musyoka on 21st day of July 2023
2. The Judge then deferred the sentencing and ordered for the preparation of a presentencing report.
3. The sentencing hearing took place on 18.10.2023. Through their advocate Ms. Imbosa, the accused persons told the court that they are first offenders and are remorseful. The 1st accused informed the court he has a young wife and 4 children and he pleads that he be allowed to go back so that he could take care of them.
4. For the state, Ms. Osoro submitted that the first accused has no community ties; that he still maintains his innocence and therefore he can not claim to be remorseful. She further submits that from the onset, the two set out on a mission to harm the deceased, as there is evidence that the 2nd accused was picked by the 1st accused from his house, and they both headed to where the deceased was.
5. It is pointed out that the 2nd accused is not remorseful, as he still denies committing the offence. The prosecutor then concludes by seeking for sentence as prescribed by law for this particular offence.
6. I have considered the foregoing submissions. I have also perused the presentencing reports.



7. The first accused Ayub Saulo has lost strong communities ties, and the community is generally hostile towards him. Both accused persons are first offenders. This is a mitigating factor. They also claim to be remorseful but their pleas of innocence even after conviction is at variance with their submissions in this regard.
8. I have also considered the circumstances of the offence. For the accused persons to use violence to deal with an apparent conflict, they had with the deceased, and particularly the kind of violence that would cause fatal injuries, speaks about the accused's persons lack of regard for human life. I am of the considered view that the punishment which the court needs to pass must speak to deterrence, retribution and finally, rehabilitation.
9. Considering all the foregoing, I hereby sentence each of the accused persons to 30 years in prison, from the date of conviction.
10. Right of Appeal- 14 days

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

S. CHIRCHIR

JUDGE

