



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**CRIMINAL CASE NO. 37 OF 2012**

**REPUBLIC..... PROSECUTOR**

**VERSUS**

**OSCAR MAKWA MACHANJA.....ACCUSED**

**RULING ON SENTENCE**

1. The accused person herein was convicted on 10<sup>th</sup> December 2021 of murder. I called for a pre-sentence report, before sentence. One has been filed, dated 8<sup>th</sup> February 2022. The report is generally not favourable on the accused. It depicts him as a violent person, even to his own parents, and an abuser of drugs and alcohol. He is said to be remorseful though, although still denying having committed the offence. A custodial sentence was recommended.

2. Mitigation was done on 9<sup>th</sup> September 2021, through his Advocate, Mr, Munyendo. He expressed remorse, and pleaded for leniency. He was said to care for his son after his wife left him, and also for his elderly parents, although the probation report indicates that he is violent towards the same parents. Mr. Mwangi for the prosecution, emphasised that the accused was a convict for the offence of murder, and that the victim was a member of a family that had been deprived of a person that they depended on. He prayed for a custodial sentence, to serve as a lesson to others.

3. I have considered the circumstances under which the deceased died, the report by the probation office, as well as the statements on mitigation by Mr. Munyendo and Mr. Mwangi. Indeed, a family lost a member in the hands of the accused person. The death was totally needless, and unprovoked, and it would appear it was perpetrated in the furtherance of general crime. I am persuaded that a custodial sentence is merited in this case, which should serve to remove the accused from society, where he is a menace, to a place where he can be rehabilitated.

4. Consequently, the accused person herein is sentenced to serve thirty years in jail. There is a right of appeal, to the Court of Appeal, against both the conviction and sentence. It is so ordered.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 25<sup>TH</sup> DAY OF FEBRUARY, 2022**

**W MUSYOKA**

**JUDGE**

**Mr. Erick Zalo, Court Assistant.**

**Mr. Mwangi, instructed by the Director of Public Prosecutions, for the State.**

**Mr. Munyendo, Advocate, for accused.**