



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Ayoma & another (Criminal Case E020 of 2022)  
[2022] KEHC 16948 (KLR) (28 December 2022) (Ruling)**

Neutral citation: [2022] KEHC 16948 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E020 OF 2022  
RE ABURILI, J  
DECEMBER 28, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**BERNARD OTIENO AYOMA ..... 1<sup>ST</sup> ACCUSED**

**ALEX ONONO OKETCH ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. The two accused persons herein Bernard Otieno Ayoma and Alex Onono Oketch have been convicted of the offence of Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) after a full trial.
2. They have mitigated and the court has considered those mitigations and the fact that they are not first offenders. The 1<sup>st</sup> accused admits that he was convicted of the offence of assault causing actual bodily harm and was sentenced to probation for 6 months while the 2<sup>nd</sup> accused admits that he was convicted and sentenced to serve one-year imprisonment for being found in possession of illicit brew.
3. The 2 accused persons pleaded not guilty to the charge and they plead for leniency saying they never intended to kill the deceased.
4. I have considered those mitigations and the injuries sustained by the deceased Daniel Onyango Rambo as per the post-mortem Report PEx13 and the circumstances under which the deceased met his untimely death on allegations that when he went to sell avocados at the 1<sup>st</sup> accused's home, he might have stolen his phone which his mother stated was purchased on loan. There was absolutely no evidence that the deceased who was brought to the home of the 1<sup>st</sup> accused so that he could be forced to confess to have stolen his phone was a thief or that he had stolen the said phone which he had to for pay with his life.



5. Life is sacrosanct and no person has any right to take away the life of another except as by law provided.
6. The accused persons should have presented the deceased to the law enforcement officers if they suspected him to have stolen a phone so that they did not have to and had no right to take the law into their own hands to chastise the deceased or mete out punishment extra judicially.
7. Despite the mitigation, the accused persons who are not first-time offenders have not demonstrated any remorse before this court.
8. The 2<sup>nd</sup> accused person in the company of another, Stephen are the ones who located and brought the deceased to the homestead of the 1<sup>st</sup> accused at his mother's homestead where they called the 1<sup>st</sup> accused to come and when he did arrive, they continued administering mob injustice to the deceased until he was left for dead then they pretended to be good Samaritans taking him to a medicine man not even to a hospital when he was gravely injured. They were in my view trying to cover their trail.
9. These offences of persons administering punishment to suspects and in a very violent manner are very rampant in this county. A deterrent sentence is called for.
10. Punishment for murder upon conviction is death. However, following the *Francis Muruatetu v. Republic* [2017]eKLR, I hereby exercise discretion and sentence each of the two accused persons to serve thirty five (35) years imprisonment for the murder of Daniel Onyango Rambo.
11. The sentence to be calculated from the date of arrest on 15/5/2022.
12. I so order.
13. Right of Appeal is guaranteed and explained.
14. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 28<sup>TH</sup> DAY OF DECEMBER, 2022.**

**R.E. ABURILI**

**JUDGE**

