

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 25 OF 2018

STATEPROSECUTOR

VERSUS

PAUL ONYANGO ARIRAACCUSED

RULING ON SENTENCE:

1. On 30.11.2020 this court found the accused Paul Onyango Arira guilty of Murder as charged. I then called for a presentence report which has been filed, signed by Rose Gwaro on 28.12.2020. The accused has also mitigated which mitigations I have taken into account that he is a family man and a first offender. He is also remorseful and seeks for forgiveness. He urged the court to give him non-custodial sentence so that he can seek forgiveness from the family of the deceased.
2. However, the accused served as a Village Elder who took the Law into his own hands and decided to mete mob injustice to the deceased who was his cousin, on suspicion of stealing a cow.
3. The accused should have arrested the deceased and handed him over to the Police for action instead of descending on him with blows and clubs until the deceased met his death. That was cruel of the accused who ought to be a messenger of the law to the rest of the citizenry. I have read the presentence report. The accused claims to be innocent but the evidence against him is overwhelming as the offence took place in broad daylight.
4. The accused is described to be Law abiding but in this incident he became the Law unto himself and killed a suspected thief. This practice must be discouraged as thieves are dealt with by the Law. The accused is said to have served the community well as a village elder.
5. The community and his family are ready to receive him back home to serve as a village elder but the deceased's family are bitter that their deceased's son was innocent. The Area Chief and Assistant Chief knew the victim as a thief. The other suspects escaped and have not been arrested. The accused has been in custody since his arrest in 2018.
6. Taking into account the mitigations and circumstances under which the offence was committed, and the presentence report and the fact that a life was lost through mob injustice, I hereby sentence the accused person Paul Onyango Arira to serve five years and six months imprisonment. However, this sentence shall take into account the period already served in prison remand custody. Of the 5 years and 6 months imprisonment, the accused convict shall, upon completion of the six months imprisonment be released on probation for a term of three years commencing from the date of his release.
7. Right of Appeal explained.
8. Orders accordingly.

Dated, Signed and Delivered at Siaya this 19th day of January, 2021

R.E. ABURILI

JUDGE

In the presence of:

Mr. Kakoi Principal Prosecution Counsel

Mr. Ochanyo advocate for accused

Accused present

CA: Mr. Mboya and Ms. Modestar