



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**CRIMINAL CASE NO. 19 OF 2018[MURDER]**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**ISAIAH OTIENO OKWIRI.....ACCUSED**

**RULING ON SENTENCE**

1. On 30.11.2020 this court delivered judgment and found the accused person herein Isaiah Otieno Okwiri guilty of murder as charged and convicted him accordingly. The court also called for a presentence report and mitigation before sentence. The Probation Officer, Rose Gwaro filed a presentence report dated 29.12.2020 and recommends that the accused is not fit for a non-custodial sentence. In addition, the Probation Officer calls for prison rehabilitation of the convict as a strategy to rehabilitate and reform him. The accused murdered the deceased in cold blood. He was accompanied by another person who was convicted and sentenced to death but his death sentence was commuted to life and on appeal to the Court of Appeal the life imprisonment was reduced to 30 years imprisonment.

2. I have heard the self-serving touchy mitigation by the accused and his advocate and the fact that the convict is a first offender. However, no one has a right to take away the life of another person. The deceased did not deserve to be unlawfully killed. Live and let live.

3. **Punishment for Murder Under Section 204 of the Penal Code** is death. However, as the death sentence is not mandatory, and considering that it has taken long for the accused to face justice since he ran away after murdering the deceased on 2.5.2012 and was only arrested in 2018 six years after the offence, I hereby exercise discretion in the spirit of the Supreme Court decision in **Francis Karioko Muruatetu & another v Republic [2017] e KLR** and Sentence the accused person herein Isaiah Otieno Okwiri to serve Forty (40) years imprisonment to be calculated from the date of his arrest taking into account the period that he has already served in prison remand custody.

4. Right of Appeal guaranteed.

5. Orders accordingly.

**Dated, Signed and Delivered at Siaya this 19<sup>th</sup> day of January, 2021**

**R.E. ABURILI**

**JUDGE**

**In the presence of:**

Mr. Mirembe Advocate for the accused

Mr. Kakoi Principal Prosecution Counsel for State

CA: Modestar and Mboya