



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

CRIMINAL CASE NO. 16 OF 2014

REPUBLIC.....PROSECUTION

VERSUS

JOHN MULU MUNUVE.....ACCUSED

SENTENCING ORDER

1. The accused has been convicted of murder contrary to **section 203** as read with **section 204 of the Penal Code Cap 63 Laws of Kenya**.
2. He was afforded opportunity to mitigate which he did via his advocate to the effect: He is remorseful and regrets death of the deceased person. He says the killing happened in the heat of the moment as it was stated in evidence that when he met deceased, he (deceased) said that accused was kind of boys he bewitches. That the boy had been bewitched to drop from school. The accused thus snatched the stick deceased had in his possession and hit him and then stepped on his chest.
3. The deceased died. He says he has been in custody for 6 years from 18/9/2014 when he appeared in court.
4. The **2016 Judiciary of Kenya Sentencing Policy Guidelines** lists the objectives of sentencing at page 15, paragraph 4.1 as follows:

“Sentences are imposed to meet the following objectives:

 - I. Retribution: To punish the offender for his/her criminal conduct in a just manner.***
 - II. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.***
 - III. Rehabilitation: To enable the offender reform from his criminal disposition and become a law abiding person.***
 - IV. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims’, communities’ and offenders’ needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender’s contribution towards meeting the victims’ needs.***
 - V. Community protection: To protect the community by incapacitating the offender.***
 - VI. Denunciation: To communicate the community’s condemnation of the criminal conduct.”***
5. In the case of **Nicholas Mukila Ndeti v Republic [2019] eKLR** the held that, **“the sentencing policy states at paragraph 4.2 that when carrying out sentencing all these objectives are geared to in totality, though in some instances some of the sentences may be in conflict.”**
6. The court finds that though accused may have been angered by the deceased utterances the attack was brutal and unjustified. However, there was no previous records on his side thus treated as first offender.
7. Therefore, after considering the mitigations aforesaid and the fact that he was first offender plus the circumstance of the case, the court finds that this is not a case for mandatory life sentence but severe custodial sentence thus sentences accused to 15 years’ imprisonment with effect from 18/9/2014.

8. Right of appeal explained.

DELIVERED AND SIGNED AT GARISSA THIS 24TH DAY OF MARCH, 2021.

.....

C. KARIUKI

JUDGE