

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HIGH COURT CRIMINAL CASE NO. 139 OF 2017

(FORMERLY MACHAKOS HCCRC 62 OF 2014)

REPUBLIC..... PROSECUTION

-VERSUS-

NDOLO MATUNDU.....ACCUSED

RULING ON SENTENCE

1. **Ndolo Matundu** the accused, was charged and convicted of murder contrary to section 203 as read with section 204 of the Penal Code. The matter is now for sentencing. A detailed report has been filed by the county probation officer. Its dated 28th May 2020.
2. From the report and the mitigation in court, I have noted that the accused was aged 31 years and unmarried when this offence was committed. He admits committing the offence.
3. The accused is a first offender. It has been confirmed that he used to abuse drugs. The accused and the deceased were not related but the latter worked for the accused's neighbor.
4. Reports from the prison show that the accused has reformed and has undertaken a number of courses. Copies of the certificates and original transcripts are before the court. They confirm his transformation of heart and attitude.
5. The family of the accused and deceased are said to be in the process of reconciliation discussions.
6. I have noted that the accused was first arraigned in court on 13th October 2014. Judgment herein was delivered on 8th May 2020. He has been in custody for five (5) years and eight (8) months. It is not lost to the court's mind how the accused brutally killed the deceased and even burnt his body.
7. Taking into account all the mitigation, the period he has been in custody, the pre-sentencing report and the circumstances of the case, I find that it is too early to send the accused on a non-custodial sentence. I hereby sentence him to six (6) years' imprisonment which will be served as follows:

i. The first three (3) years will be in prison custody. (starts today)

ii. The next three (3) years will be on probation under the supervision of the county probation officer. Terms of probation explained.

Orders accordingly.

Delivered, signed & dated this 25th day of June 2020, in open court at Makueni.

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H. I. Ong'udi

Judge