



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL APPEAL NO. 74 OF 2019**

**GEOFFREY ODHIAMBO ODHIAMBO.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Appeal against sentence in Criminal Case No. 1163 of 2018 in the Principal Magistrate's Court at Bondo dated 4<sup>th</sup> October 2019 before Hon. E.N. Wasike, Senior Resident Magistrate)*

**JUDGMENT ON SENTENCE**

1. The Appellant **GEOFFREY ODHIAMBO ODHIAMBO** was convicted of the offence of Manslaughter and sentenced to serve 15 years imprisonment. He filed this appeal challenging both conviction and sentence but today, he withdrew his appeal against conviction and urged the court to consider reducing his sentence, having regard to the circumstances of the case, his age which is only 22 years and the fact that he is sorry for the unintended death of the deceased Joannes Otieno Owuor.
2. The trial magistrate in his sentencing remarks considered mitigation by the appellant and Victim Impact Statement before sentencing the accused person. He therefore exercised his discretion properly and meted out sentence which was way below the life imprisonment provided for as the maximum under Section 205 of the Penal Code.
3. Punishment serves its purpose. A person who commits an offence, irrespective of their age or status in life, does not and should never expect to walk away free without being punished by the law.
4. As correctly observed by the trial court after considering the Victim Impact Statement, the deceased left dependants who are suffering. He died a painful death. The accused person appears to be concerned about his future prospect of becoming a Kenya Defence Forces (KDF) soldier which he should have considered before losing it out and unlawfully killing the deceased. With a criminal record, he cannot achieve that dream. He must get accustomed to doing something else lawful and legitimate after life in prison.
5. For the above reasons, I would have declined to interfere with the lawful sentence imposed on the applicant.
6. However, as the appellant has saved the court's time and resources in withdrawing his appeal against conviction meaning his conscience has picked him despite initially denying the offence, I shall exercise discretion and tamper with the lawful sentence imposed by the trial court. I hereby set aside the 15 years imprisonment imposed on him and substitute it with a prison term of eight (8) years to be calculated from the date of arrest and confinement in custody on 5/12/2018.
7. Orders accordingly.

**Dated, signed and Delivered at Siaya this 29<sup>th</sup> Day of July, 2020.**

**R.E. ABURILI**

**JUDGE**