



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 16 OF 2015**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**DKP.....ACCUSED**

**SENTENCING**

1. The accused was convicted of the offence of murder on 18/11/2019 but the sentence has been delayed as he has been undergoing treatment in the hospital.
2. According to the probation report dated 28/11/2019 he is suffering from spinal tuberculosis (potts disease) thus rendered him immobile and depends on others for movement.
3. The advocate for his defence has in mitigation relied on the probation report and especially on the health aspect of accused's conditions.
4. He has been in custody since 27/7/2015 or thereabout thus been in custody for over 5 years. His defence alluded to the fact that the stabbing was occasioned by fight between accused and the deceased as accused was stopping theft.
5. It is noted that he had a previous case of preparation to commit a felony CRC No. 15 of 2013 in which he was convicted but was acquitted in appeal. Secondly, he has a pending CRC No. 796 of 2016 for escape from lawful custody which is still pending.
6. He still denies that he occasioned death of the deceased and also that he displays no remorse or repentance.
7. Thus, he cannot benefit from a non-custodial sentence in the circumstances. However, since he has been in custody for 5 yrs and is yet to finalise aforesaid escape from lawful custody case, the court makes the following orders: -

*(i) He is sentenced to serve 10 yrs imprisonment to run from 27/7/2015 thus he will serve 5 more years.*

*(ii) He will be taken back to lower court in Garissa for trial in CRC No. 796 of 2016.*

*(iii) Orders accordingly.*

**DATED, DELIVERED AND SIGNED AT GARISSA THIS 28<sup>TH</sup> DAY OF OCTOBER, 2020.**

.....

**C. KARIUKI**

**JUDGE**