

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

CRIMINAL CASE NO. 16 OF 2017

REPUBLIC.....PROSECUTOR

-VERSUS-

1. JARED OCHIENG

2. BERNARD WASONGA YONGO.....ACCUSED

SENTENCE

1. The Accused persons herein were charged with the information of murder and after a trial they were found guilty and convicted of the offence of manslaughter on 16/05/2019. On 29/05/2019 parties tendered submissions and mitigations on sentence where the Defence Counsel urged this Court to exercise leniency as the accused persons are remorseful.

2. The prosecution prayed for a severe sentence given that an innocent life was lost and although the accused persons are first offenders they are liable to life imprisonment.

3. I have considered this matter with a keen eye. The circumstances under which the accused persons committed the offence were well captured in the judgment. As stated therein the accused persons acted in such a beastly manner by terminating the life of their fellow fisherman in the lake waters and at night. I have also taken into account the Pre-Sentence Reports on record and their recommendations that the accused persons be committed to non-custodial sentences although none of the accused persons or their families have taken any steps towards fostering peace and reconciliation over the matter with the family of the deceased. I also note that the accused persons have young families.

4. By striking a balance between the interests of the accused persons and those of the family of the deceased and having considered the Pre-Sentence Report I find that this is a case which is not fit for a non-custodial sentence. I hereby sentence each of the accused persons to 10 years' imprisonment.

It is so ordered.

DELIVERED, DATED and SIGNED at MIGORI this 28th day of June 2019

A. C. MRIMA

JUDGE

Sentence delivered in open Court and in the presence of:

Mr. Mwita Kerario Counsel for the Accused person.

Mr. Kimanthi, Senior Principal Prosecution Counsel instructed by the Office of the Director of Public Prosecutions for the State.

Evelyne Nyauke – Court Assistant