

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

SIAYA CR. REV. NO. 293 OF 2018

CHARLES ONYANGO OKOTH APPLICANT

VERSUS

REPUBLIC RESPONDENT

(Being an application for Revision of sentence in UKwala PMCRC No. 192 of 2010 dated 3.2.2011).

RULING

1. I have considered the application for sentence revision filed on 13.12.2018. The Probation report was filed on 21.1.2019 but the file was never availed for consideration.
2. The Applicant/Convict was sentenced to serve 15 years imprisonment for the offence of manslaughter. He is said to be aged 65 years old. He was sentenced on 3.2.2011. He has been in prison for 8 years and has learnt upholstery. He was a carpenter.
3. The Convict's family is willing to receive him but the Victim's family who are neighbours with the convict threatened to revenge for the life of their deceased relative. The quarrel was over a boundary dispute.
4. The community claim that the deceased was the aggressor as he crossed into the convict's land.
5. The convict's home was set ablaze after the death of the deceased (victim) and after the arrest of the convict.
6. The convict's wife and 4 children were rendered homeless so they left the home, for fear of being attacked by the deceased's family and their whereabouts are unknown.
7. The Probation Officer was categorical that the home environment for the inmate was risky and not conducive for the convict. His life was in grave danger out there, despite his age.
8. I observe that the Applicant/Convict might be released on remission subject to his good conduct, discipline and Industry, on 3.2.2021 which is not far away.
9. Rather than release him to be lynched by the deceased's family, I decline to revise his lawful sentence which was lenient.
10. Let the convict complete his sentence in Prison and seek protection from the deceased's family who are not above the Law as no two wrongs can make a right and especially after the convict serving prison sentence as by law established.
11. The application for sentence Revision is hereby dismissed.
12. The file is closed.

DATED AT SIAYA THIS 26TH DAY OF SEPTEMBER, 2019.

HON. LADY JUSTICE R.E. ABURILI

JUDGE