



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 11 OF 2015**

**REPUBLIC**

**VERSUS**

**TITUS MUSYOKA**

**SENTENCE**

The accused Titus Musyoka has been convicted of murder contrary to section 203 of the Penal Code. The punishment for this offence is provided for under section 204 of the Penal Code. During the sentencing hearing the following information was received by the court:

(1) A pre-sentence report

I substantially accept the profile of the accuse aged about 50 years married to Naomi Mueni and blessed with four children. The accused is described by the community as well behaved and peace loving. It has been noted that during the pendency of the case to the two families came together to explore a settlement through victim offender mediation under alternative dispute resolution mediation. There was significant degree of planning and progress between the two families however no settlement was reached. The defence counsel submitted on mitigation urging the court to take judicial notice that the accused is a family man where he is the main bread winner. The accused also has no previous convictions on any other offence as confirmed by the Director of Criminal Investigations.

In sentencing the accused I bear in mind the Sentencing Policy and Guidelines of the Judiciary 2016 and the provisions of section 204 of the Penal Code. The maximum and only sentence for causing death of another contrary to section 203 is to suffer death. It is evident that the offence which this court found accused guilty is a serious offence where an innocent life was cut short prematurely. The victim family though invited to attend the hearing chose not to, due to some logistical challenges. It could have appropriate to have them participate by giving a victim impact statement. I have weighed one factor after another at this stage of the proceedings. I am aware that the death sentence as a form of punishment is a live matter in our courts regarding its suitability and or abolition from the statute books. This debate is ongoing and soon or later the Kenyan people through parliament or the court will bring to fruition this long standing issue. However as of now death sentence is provided for under the penal code for offences like murder which the accused was found guilty and convicted after the trial. Accordingly my duty is to apply the relevant provisions of section 204 of the Penal Code and sentence the accused to suffer death.

14 days right of appeal explained.

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**R. NYAKUNDI- JUDGE**

**31/1/2017**

**Representation:**

Mr. Onchiri for the accused – present

Accused present

Mr. Akula for Director of Public Prosecutions

Mateli Court Assistant