

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CRIMINAL CASE NO. 7 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

CLIFFORD OTIENO ODUNY.....ACCUSED

SENTENCE

In determining the sentence I have regards to the provisions of section 204 of the Penal Code. I have taken into account the mitigation of the accused as submitted by Mr. Itaya for the accused. The presentence report by the probation officer reveals that the accused is a man of positive character. There are also no previous offences recorded against the accused with the criminal investigations directorate in sentencing the accused.

I am guided by the decisions of the Court of Appeal in cases of this nature on sentencing, more specifically the case of **Joseph Njuguna Mwaura & 2 Others v Republic [2013] eKLR** where the court observed as follows:

“We are aware that in the recent past, there have been no executions of the death sentence.....we however are not convinced that the death sentence is not a fix sentence to be meted out and carried out as provided for in the law.

Should Kenyans decide that it is time to remove the death sentence from our statute books, then they shall do so through their representatives in parliament. In the meantime the sentence of death shall continue to be imposed in case of conviction where the law provides.”

Accordingly I sentence the accused to death as provided for under section 204 of the Penal Code for a conviction for the offence of murder under section 203 of the Penal Code.

14 days right of appeal explained.

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R. NYAKUNDI - JUDGE

30/1/2017

In the presence of the accused

Mr. Akula for the Director of Public Prosecutions

Mr. Itaya advocate for the accused.

Mr. Mateli – Court Assistant