

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 58 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

PAUL ODERO NGUKA.....ACCUSED

SENTENCE

Paul Odero Nguka was tried for the murder of Maureen Akinyi Nguka. The murder was committed on 6th January 2008 at Maleek Hotel and Lodging in Githurai 45. By its judgement delivered on 10th March 2016 this court found the accused guilty of murder contrary to section 203 as read with section 204 of the Penal Code and entered a conviction against him.

In mitigation on behalf of the accused, Mr. Olando mitigated that the accused is a first offender and that he is remorseful for what happened; that the accused has served Kenya as a military officer and that there has been no complaint from his superiors as regards the accused's conduct. Counsel further mitigated that the family of the accused has not complained about his conduct either; that he has two children to look for and take care of now that their mother is deceased and that the accused seeks lenient sentence.

The penalty for murder is found under section 204 of the Penal Code which is worded thus:

Any person convicted of murder shall be sentenced to death.

The section is couched in mandatory terms and from the pronouncements of the courts death sentence is mandatory. Even where an accused person mitigates in exercise of his right to a fair trial the law does not afford the court any discretion in this matter. This court has however taken into account the mitigation that the accused is remorseful and prays for leniency. As the presiding judge in this trial I am not able to exercise discretion in sentencing the accused but must act to the dictates of the law. I will and do hereby sentence the accused, Paul Odero Nguka to death as provided under section 204 of the Penal Code. He shall suffer death in the manner authorized by the law. He has the right to appeal against the judgement and sentence within 14 days.

Orders shall issue accordingly.

Dated, signed and delivered this 21st day of March 2016.

S. N. MUTUKU

JUDGE

In the presence of:

Ms Onunga for the prosecution

Mr. Olando for the accused

Mr. Paul Odero Nguka the accused

Mr. Daniel Ngumbi, court clerk