



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT BUSIA**  
**Criminal Case 20 of 2009**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**VITALIS OMUSE OWOUR.....ACCUSED**

**SENTENCE**

The accused hit the deceased, his own brother, with a Jembe three times on the head. It was apparently with great force. This led to the deceased's death the next day while receiving medical treatment in hospital.

The fact shows that the deceased seriously provoked the accused. He called his wife a harlot and even named a person who allegedly committed adultery with her. He abused the accused while armed. He went away and came back to again abuse and threaten his wife in the kitchen.

That said, there was no doubt that the accused used a dangerous weapon and too much force, although the deceased was similarly armed. He has been in remand for a year and is remorseful. He seeks leniency. He has a young wife and very young children. He however deserves prison sentences. He will go to prison for six (6) months

Orders accordingly.

Dated and delivered at Busia on 15<sup>th</sup> day of July, 2010.

**D.A ONYANCHA**

**JUDGE**