



**Republic v Obemi & 2 others (Criminal Case E001 of 2023)  
[2025] KEHC 1545 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1545 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL CASE E001 OF 2023  
WM MUSYOKA, J  
FEBRUARY 21, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**FREDRICK OTIENO OBEMBI ..... 1<sup>ST</sup> ACCUSED**

**JAMES OTIENO ONYANGO ..... 2<sup>ND</sup> ACCUSED**

**EVANS JUMA ODUOR ..... 3<sup>RD</sup> ACCUSED**

**RULING**

1. I convicted the accused persons herein, Fredrick Otieno Obemi, James Otieno Onyango and Evans Juma Oduor, on 24<sup>th</sup> January 2025, of the murder of Lukas Ouma Okello. The background was that the deceased and another were driving cattle, at night, to a home where they were to plough the land the following morning, having already taken a plough to that home earlier in the day. They passed by a home where a night vigil or matanga was in progress, and the persons there mistook them for cattle thieves, and attacked them. The colleague of the deceased managed to flee, but the deceased was beaten to death. The accused persons were identified, the witnesses who testified, as among the persons involved in assaulting the deceased.
2. In mitigation, it was stated, by their Advocate, Mr. Ouma, that the accused persons had no previous criminal records, and that they were remorseful for what had happened, and were pleading for leniency. He stated that they were all family men, with wives and children, who were dependent on them. He pleaded for non-custodial sentences.
3. The Republic, through Mr. Onanda, submitted that a life was lost, and invited the court to consider the plight of the family of the deceased.



4. I called for pre-sentence reports, and 3 reports were filed, all dated 6<sup>th</sup> February 2025, in respect of all 3 accused persons. The reports are all positive. The 3 accused persons are portrayed as responsible members of society, who were viewed favourably by the community and its leadership. The pictures of the accused persons painted in the pre-sentence reports tally with the images of them that emerged from the evidence recorded at trial. They came out as ordinary village folk, going about their usual routines, but who got carried away in the excitement or euphoria of a mob, and were driven by a herd mentality, to engage in the activity which led to the unfortunate death of the deceased.
5. I have considered the mitigation, the pre-sentence report and the recorded evidence. The deceased did not bring the misfortune upon himself. The evidence indicated that he was a hardworking person, going about his duties, in building the nation. He was just driving his own cattle to the home, where he was to do some work that he had been hired to do, ploughing a farm, and as he wanted to start early the next morning, he opted to drive the oxen there at night. He committed no offence or wrong, for there was absolutely nothing wrong with a person driving his cattle at night from one spot to another, for legitimate reasons. There is no law which bars such movement, and there was no evidence that administrators had given directives against that, which the deceased could have violated.
6. No one had any reason to attack and kill him. From the recorded evidence, he did not attack or confront anyone. He did not resist when the accused and others confronted him, and he cooperated with them, but they still beat him to death. If anyone suspected him to be a livestock thief, then they should have reported him to the police. Indeed, there was a liguru present, who tried to restrain the accused and others, from assaulting the deceased, but they outnumbered and overpowered him.
7. There is nothing to indicate that the accused persons had any grudge against the deceased. As indicated above, the accused persons and their accomplices acted at the spur of the moment, without giving much thought to what they were engaging in. The killing was not premeditated. I also note that they were not the only assailants, for they were part of a larger mob. However, a life was lost, most senselessly. There is need for deterrence, to send out a message, that where a person is caught, suspected of having committed some offence, the right thing is not to take the law into one's hands, but to take or escort the person directly to the police, or to the local leadership or authorities.
8. Taking everything into account, I hereby sentence the accused persons, Fredrick Otieno Obembi, James Otieno Onyango and Evans Juma Oduor, to serve imprisonment for a period of 15 years each, for the murder of Lukas Ouma Okello. There is a right of appeal, to the Court of Appeal, of 14 days, from the date of this order.

**DELIVERED, DATED AND SIGNED, IN OPEN COURT, AT BUSIA, ON THIS 21<sup>ST</sup> DAY OF FEBRUARY 2025.**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Onanda, instructed by the Director of Public Prosecutions, for the Republic.

Mr. Ouma, Advocate for the 3 accused persons.

