



**Republic v Egesa (Criminal Case E021 of 2023)
[2025] KEHC 10584 (KLR) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10584 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL CASE E021 OF 2023
WM MUSYOKA, J
JULY 18, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

EVANS WANDERA EGESA ACCUSED

RULING

1. I convicted the accused person herein, Evans Wandera Egesa, on 29th May 2025, of the murder of Bernard Odonyo Wafula. In my judgment, I directed the Busia County Director of Probation and Aftercare Services to compile and file a pre-sentence report. That was done, and a pre-sentence report was filed, dated 23rd June 2025. I conducted a sentencing hearing on the same date, 25th June 2025.
2. At that hearing, Mr. Onanda, for the Republic, and Mr. Otieno, for the accused, both addressed me. Mr. Otieno called for a non-custodial sentence, arguing that there is over-utilisation of custodial sentences. He pointed out that the deceased had made a habit of stealing from the community. He submitted that the accused had expressed remorse. Mr. Onanda submitted that a life was lost.
3. I have considered the mitigation, the pre-sentence reports, the recorded evidence. I bear in mind several things, as I mull over the sentence to impose. Firstly, a life was lost. Secondly, the conduct of the accused, immediately after inflicting the injury on the deceased, was commendable. He reported the same to one of his relatives and then surrendered himself to the police. Thirdly, the deceased was problematic. He would appear to have been a habitual thief, who got caught in a snare laid by the accused person.
4. The accused person could have done better. The law does not allow anyone to take the law into own hands. Once a thief is caught in the act, he should be apprehended and handed over to the authorities, for the law to take its course. Choices have consequences. I appreciate, though, that the accused is an ordinary villager, who may have not known the best way to go about it. The fact that he committed the act and did not go into hiding shows it.



5. Taking everything into account, I hereby sentence the accused person herein, Evans Wandera Egesa, to serve imprisonment, for a period of 6 years, for the murder of Bernard Odonyo Wafula. The period of imprisonment shall run from the date of his arrest. There is a right of appeal, to the Court of Appeal, and the appeal ought to be filed within 14 days of the date of this order.

DELIVERED, DATED AND SIGNED, IN OPEN COURT, AT BUSIA, ON THIS 18TH DAY OF JULY 2025.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Mr. Fredrick Barasa Ongulu , Probation Officer.

Advocates

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

Mr. Otieno, instructed by Masiga Otieno & Company, Advocates for the accused person.

