



**Republic v Oloo (Criminal Case E023 of 2022)
[2024] KEHC 7443 (KLR) (20 June 2024) (Sentence)**

Neutral citation: [2024] KEHC 7443 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E023 OF 2022
RE ABURILI, J
JUNE 20, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

BRIAN ODHIAMBO OLOO ACCUSED

SENTENCE

1. The accused person Brian Odhiambo Oloo has been convicted by this court upon being found Guilty of the offence of murder contrary to Section 203 of the [Penal Code](#). He has mitigated through his counsel and in his own words. The court has also heard on oath the victim’s mother’s statement.
2. The accused pleads for leniency. He is a first offender as there is no criminal record on him. He is remorseful and has undertaken theological studies while in prison custody. He has learnt his lessons. He has two children. He is 26 years old and he says that he had 2 children who are now suffering as nobody is taking care of them. He does not say whether he was married. He submitted that he now knew how to repair motor vehicles.
3. The Victim’s mother emotionally told the court how her first born son was humble and would never offend anyone and was only 22 years old. She asked why the accused killed her son like an animal. The deceased had cleared his KCSE and was working with Menengai Company. She would accept the verdict but seeks justice for her son Steve Joseph Oyugi.
4. I have considered all the mitigation, the fact that the accused is a first offender who is remorseful and that he prays for leniency. That he is 26 years old and has 2 children who look up to him. However, do the two children look at the accused for mentorship to be murders and rapists?
5. The accused attacked the deceased who was in the company of PW 2 and after he had killed the deceased, by hacking him with a panga, he raped PW 2 for a very long time and even took her phone



number while raping her and after he left her, he called her. It is that rape of PW 2 that substantially led to the identification of the deceased's murderer through forensic examination of the accused and PW 2.

6. The accused was a heartless person. He threatened to kill PW2 as well. She testified while appearing so terrified. He left her with psychological scars as well as physical scars. The deceased was young and he lost his life under the cruel and barbaric hands of the accused. The accused does not deserve the mercy of anybody not even God in heaven. For sure, just like the pained mother of the victim of this heinous offence asks, this court asks, why did the accused hack the deceased to death and proceeded to rape PW2? Only the accused person has the answer.
7. Punishment for murder, upon conviction, is death as stipulated under Section 204 of the Penal Code. However, as the court retains the discretion in sentencing, and applying the sentencing guidelines by the Supreme Court given in Francis Muruatetu & Another v Republic [2017] eKLR and Muruatetu II, I hereby exercise discretion and sentence the accused person Brian Odhiambo Oloo to serve Forty (40) years imprisonment to be calculated from 14th September 2022 the date of his arrest.
8. I further direct the Office of Director of Public Prosecutions to pursue the rape case against the convict herein, whose victim is PW2 for her to get justice.
9. Right of Appeal to the Court of Appeal is 14 days of today.
10. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 20TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

