



**Republic v Otieno (Criminal Case E016 of 2023)
[2024] KEHC 6757 (KLR) (4 June 2024) (Sentence)**

Neutral citation: [2024] KEHC 6757 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E016 OF 2023**

RE ABURILI, J

JUNE 4, 2024

BETWEEN

REPUBLIC PROSECUTION

AND

JAPHETH OJWANG OTIENO ACCUSED

SENTENCE

1. This court has delivered judgment finding the accused person Japheth Ojwang Otieno guilty of the murder of Alphonse Okuku Ongojo Kasera and convicting him accordingly.
2. There is no criminal record filed hence the accused can be treated as a first offender.
3. He has mitigated saying he is an orphan, he supports his sister and maternal grandmother and is 29 years old. He pleads for leniency and non custodial sentence. He is unmarried.
4. The court has also heard the victim’s family impact statement on oath and how the deceased, was the sole breadwinner and hardworking loving person who is missed greatly by his family.
5. He left a widow and 4 children who are aged between 11 years – 4 years. The children live with relatives. He used to live with them in Kisumu as his wife worked in Qatar to supplement the family’s income. The children are said to be so affected by their father’s death that they keep asking when he will return.
6. I have heard all the above and the circumstances under which the offence was committed. The deceased died a very painful death that he did not deserve. His only offence is that he may have made the accused feel that he was that poor that he had to be found cooking food in a roadside kiosk looking for money, when the accused himself had belittled the deceased for negotiating for bodaboda fare, such petty conversation that led to untimely brutal murder of a young life which was very productive and supportive of his young family.



7. The accused is unmarried. He is young and claims that he is an orphan. Between him and the children of the deceased, who is more orphaned, considering the age of those children?
8. From the prebail report, albeit orphaned, the accused is educated and he had a C grade in KCSE from Disciples of Mercy Secondary School.
9. The accused had no respect for precious life. Live and let live.
10. Punishment for murder upon conviction is death. However, this court has discretion in sentencing pursuant to the Supreme Court decision in *Francis Karioko Muruatetu & Another vs Republic* [2017] eKLR.
11. I have considered the age of the accused and the objects and purpose of sentencing and circumstances under which the deceased lost his precious life. Mitigations and victim's family views are considered. I exercise discretion. I sentence the accused/convict herein Japheth Ojwang Otieno to serve Forty (40) years in prison.
12. The sentence shall be calculated from the date of arrest on 5th June 2023.
13. Right of Appeal to the Court of Appeal is 14 days of today.
14. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 4TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

