



State v Odongo (Criminal Case 14 of 2023) [2023] KEHC 19525 (KLR) (4 July 2023) (Ruling)

Neutral citation: [2023] KEHC 19525 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE 14 OF 2023
DO OGEMBO, J
JULY 4, 2023**

BETWEEN

STATE PROSECUTION

AND

SILAS OUMA ODONGO ACCUSED

RULING

1. The accused Silas Ouma Odongo is charged with murder contrary to section 203 as read with section 204 of *Penal Code*. On being arraigned before court 4-5-2023, the accused pleaded not guilty to the charges. However on the date set for hearing, and with 4 prosecution witnesses present, the accused on 3-7-2023, the accused, both through his Advocate, intimated to the court that he wished that the charges be read out to him so that he could change his plea. Upon the charges being read out to him, the accused admitted the same. He went further to confirm that the facts of the case as read out by the prosecuting counsel, Ms. J. Mumu, are correct.
2. The court accordingly entered a plea of guilty for the accused. When the court asked from the counsel for accused, Mr. Okanda, on the issue of mitigation, learned counsel informed the court that he had discussed the same with the accused and agreed that the accused would personally give his own mitigation before the court. The mitigation of the accused was short. That he is remorseful and asks for forgiveness for what happened which he confirmed was bad. He also asked form forgiveness from his family members.
3. This matter now comes up for sentencing. The objectives of sentencing are well settled. The sentencing policy guidelines, at paragraph 4.1 summarizes the same as follows:-
 - i. Retribution
 - ii. Deterrence
 - iii. Rehabilitation



- iv. Restorative justice
 - v. Community protection
 - vi. Denunciation
4. As much as possible, sentencing should be geared towards the above objectives, which are not mutually exclusive (par 4.2). In essence therefore, sentence ideally may achieve one or more of the above objectives.
 5. I have considered the mitigation of the accused, basically that he is remorseful and regrets his action and that he pleads for forgiveness from the court and from his family.
 6. I have also considered the material circumstances of this case. Without provocation, the accused killed the deceased. The deceased was his mother. The attack was in broad daylight. It was vicious and cruel. Deceased died on the spot. Accused must have pre-meditated the action. The fact that he immediately reported his heinous act to the village elder proves this. He even went ahead to present himself to the police and duly handed over the murder weapon (panga). Further proof that he had formed the mens rea to kill his mother is contained in his own statement (Exh-1) that he was angry with his mother for preventing him from selling his land.
 7. Considering the above circumstances of this case, this court is convinced that the aggravating factors as shown above far outweigh the mitigating factors raised by the accused. This court is further convinced that the accused deserves a custodial sentence that would keep him away from the community, and which would act as a deterrence to others of like minds.

Section 204 of the [Penal Code](#), provides;

“ Any person convicted of murder shall be sentenced to death.”

8. I accordingly herein sentence the accused to life imprisonment. The accused has the right of appeal.
It is so ordered.

D. O. OGEMBO

JUDGE

4TH JULY, 2023

Court:

RULING READ OUT IN OPEN COURT IN THE PRESENCE OF THE ACCUSED, MR. OKANDA FOR THE ACCUSED AND MS. MUMU FOR THE STATE.

D. O. OGEMBO

JUDGE

4TH JULY, 2023

