



**Republic v Arusei alias Mohammed (Criminal Case E016 of 2022)  
[2024] KEHC 14811 (KLR) (20 November 2024) (Sentence)**

Neutral citation: [2024] KEHC 14811 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE E016 OF 2022  
RE ABURILI, J  
NOVEMBER 20, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**DAVID ARUSEI ALIAS MOHAMMED ..... ACCUSED**

**SENTENCE**

1. This Court has just delivered judgment finding the accused person herein David Arusei alias Mohamed, guilty of the offence of murder as charged and convicted him accordingly. The accused has mitigated through his advocate and in his own words. I have considered the circumstances under which the offence of murder was committed, the age of the accused and his mitigation. He is a first offender.
2. The accused butchered his brother because of a land and money dispute. There are other means of resolving family land disputes. Live and let live. The accused visited his brother with the whole intention of eliminating him. He succeeded.
3. I have considered the fact that sentencing is discretionary, but in this case there are aggravating circumstances that call for deterrent sentence. The accused has mitigated that he has dependants and so was the deceased. The accused turned into a Cain killing Abel.
4. Punishment for murder upon conviction is death as stipulated in section 204 of the *Penal Code*. However, in view of the *Francis Muruatetu & another v republic* [2017] eKLR case, I exercise discretion and sentence the accused person David Arusei alias Mohamed to serve life imprisonment.
5. Right of appeal to the Court of Appeal is guaranteed and explained; 14 days of today.
6. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 20<sup>TH</sup> DAY OF NOVEMBER, 2024**



**R. E. ABURILI**  
**JUDGE**

