

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 24 OF 2017

CORAM: HON. R.E. ABURILI J

STATE.....PROSECUTION

VERSUS

JULIUS NYAKWAKA..... 1ST ACCUSED

KOYO TERA OBUCHI..... 2ND ACCUSED

RULING ON SENTENCE

1. On 16/12/2020 this court delivered judgment finding the 2 accused persons herein guilty of the offence of Murder as charged and convicted them accordingly. The court then ordered for a Presentence report which was filed on 1/2/2021.

2. I have considered the mitigation by Mr. Ochanyo counsel for the accused persons on behalf of their advocate Mr. Oduor. I have also considered the mitigations by the accused persons themselves and the circumstances under which the offence herein was committed. I have given equal consideration to the Presentence reports compiled and filed by the Probation Officer, Mr. David O. Odumba of Siaya Sub-county, dated 1/2/2021.

3. I take cognizance of the fact that life which is precious was lost under very cruel hands of the accused persons in the name of revenge over the 1st accused person's wife being unfaithful to him. The 1st accused did not have to hack his rival to death. There are ways and means of resolving domestic disputes and killing is not one of the ways. The accused persons are first offenders. They are remorseful and regret the offence. They have been in prison for close to 4 years awaiting trial. Sentence upon conviction for murder is death. However, as this is no longer mandatory sentence and considering the circumstances under which this heinous offence was committed leading to loss of life, and the mitigation.

4. I exercise discretion and sentence each of the two accused persons Julius Nyakwaka and Koyo Tera Obuchi to each serve ten (10) years imprisonment to be calculated from their respective dates of arrest on 24/9/2017.

5. Right of Appeal explained.

6. Orders accordingly.

Dated, signed and Delivered at Siaya this 1st Day of February, 2021

R.E. ABURILI

JUDGE

In the Presence of:

Accused persons and their Counsel Mr. Ochanyo Advocate h/b for Mr. Odongo

Mr. Kakoi, Principal Prosecution Counsel

Court

Assistant:

Modestar

and

Mr.

Mboya