

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

HIGH COURT CRIMINAL CASE NO. 32 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

TITUS KIMATHI MUREA.....ACCUSED

SENTENCE

1. After the conviction dated the 14/12/2020, there was an order by the court that a pre-sentence report and a victim impact assessment be compiled and filed by the Probation Officer.
2. That order culminated in stet report by one J.M Kagucia, the Sub County Probation Officer, Maua, dated the 10/2/2021. In the report the perennial land dispute between the family of the accused and that of the deceased is underscored as well as the fact that the land is indeed ancestral to both families. It is further disclosed in the report that there are negotiations ongoing with a view to a lasting reconciliation so that the disputed land is subdivided for the sake of lasting peace.
3. It concludes by recommending that the accused, be considered for non-custodial sentence as a way of amending the broken relationship. I however note that the superbly written report does not reveal the number and identities of the relatives interviewed and how close they are related to the family of the deceased in the case. Infact it is revealed that the deceased left a widow who died soon after him out of illness and six children, but no mention is made of any attempt to interview the said children as the immediate victim of the heinous offence after the deceased.
4. The victim impact report is merely informative to the court of the social context of the persons related to the case but never intended to override the courts discretion in sentencing.
5. All in all, I have given due regard to the said victim impact report as well as the circumstances under which the offence was committed and I do determine that a non- custodial sentence may not be appropriate in the circumstances in that part of the object of criminal justice system is to protect the safety by deterrence. The offence was brazenly committed.
6. Having done so, I have also taken into account the fact that the accused has been in custody ever since his arrest on the 9/2/2014.
7. Having put all into consideration, I do sentence the accused to serve a jail term of 15 years to be computed from the 9/2/2014.
8. It is so ordered. Right of appeal explained.

Patrick J.O Otieno

Judge

5/5/2021