

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 21 OF 2017

STATE.....PROSECUTION

VERSUS

JOSHUA OKOTH ODERA.....1ST ACCUSED

WILLIAM OCHIENG WANGO.....2ND ACCUSED

SENTENCE

1. I have considered the mitigation by the accused person **JOSHUA OKOTH ODERA** and his counsel.
2. I have noted that the accused is a first offender. However, the manner in which the accused person butchered the deceased until only her bones could be found scattered all over and buried in a shallow grave is harrowing.
3. The accused appears to have been a wild animal who must have fed on the flesh of the deceased. He is a cannibal to say the least. Live and let live. He does not deserve the mercy of the court.
4. Despite the Francis Muruatetu v Republic [2019] e KLR decision which is to the effect that mandatory death sentence is unconstitutional, nonetheless, in this case, the accused has been accorded an opportunity to mitigate which mitigations I have taken into account. Article 26 of the Constitution allows this court to mete out death sentence where appropriate.
5. The mitigation by the accused are noted but his suffering cannot be equated to the pain the deceased must have gone through when she was butchered like a cow before she breathed her last.
6. For the above reason, I have no alternative but to impose death sentence on the accused person. I hereby sentence the accused person, **Joshua Okoth Odera** to suffer death as stipulated in Section 204 of the Penal Code.
7. Right of Appeal 7 days of today.
8. Orders accordingly.

Dated, signed and Delivered at Siaya, this 5th Day of May, 2020 via skype.

R.E. ABURILI

JUDGE