

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. E023 OF 2025

STATE

.....**PROSECUTION**

VERSUS

**CHRISPINE MAERO OBILO ALIAS CHRIS.....1ST
ACCUSED**

**STEPHEN ODUOR OTIENO ALIAS STEVE.....2ND
ACCUSED**

RULING

1. The accused persons herein **Chrispine Maero Obilo alias Chris** and **Stephen Oduor Otieno alias Steve** have been charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on the 6th day of June 2025 in Indisi village Mur Malanga Sub Location, South Alego Location, within Siaya County **Chrispine Maero Obilo Alias Chris** and **Stephen Oduor**

Otieno murdered one Joseph Sewe Obilo. However, following a plea bargain agreement dated 14th October 2025, the charge of murder was substituted with a charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. The accused pleaded guilty to the charge and facts and was convicted accordingly.

2. The sentencing hearing proceeded on 28th October 2025. M/s Omore Omore, counsel for the accused persons herein, submitted inter alia; that the 1st accused person herein is aged 35 years old; that his parents died while he was young; that he has a family with six children who rely on him for support; that he is very remorseful over the incident and prays for leniency; that his house was demolished forcing his wife and children to relocate; that the children are still quite young and that the whereabouts of his wife are unknown; that he prays for a non-custodial sentence; that they are aware of the victim's family as well; that the family of the accused are willing to accept him back.

As regards the 2nd accused, he is aged 24 years old and a boda boda operator and that he has siblings who are still young and that they are under his care and support; that they are aware of the sentiments of the victim's family and community; that he prays for non-custodial sentence to enable him take care of the said siblings.

3. Counsel for Prosecution, Mr. Soita, submitted inter alia; that the accused persons herein, even though having entered a plea bargain, did plan for the killing of the deceased over a land dispute; that at no time did the victim offend them ; that the legal process over the land had commenced and was to take place on 12/6/2025; that the deceased did not manage to see the date as he was killed before then; that the only way to balance the scales of justice is to order for custodial sentence; that the community wants a custodial sentence and likewise the family of the victim; that he prays for a commensurable custodial sentence.

4. This court called for a pre-sentence report by the probation department. The same is dated 24th October 2025. The same indicates inter alia; that both accused persons planned to eliminate the deceased before the next meeting that had been proposed by the Assistant County Commissioner's office in Karemo over a land dispute and which had been sold to one Mathias Ouko; that on the material date at around 7.30 pm the two accused persons took cover in the bushes and next to the path where the deceased was going to follow on his way home back from Malanga market and

that as soon as the deceased reached where they were, they emerged from the bush and clobbered him with jembe buttons until he died and that they dragged the body and dumped it in a maize plantation where it was later found decomposing; that the victim's family are still bitter as they have lost their bread winner and that releasing the accused persons back to the society will cause more havoc; that the area administration and the community indicate that there is total fear over the incident and that the residents are worried as to whether there are other assailants ready to pounce over the land dispute and hence they are opposed to the release of the accused persons; that the accused persons are reported to have bragged about what they had done and therefore the reason the villagers are opposed to them coming back.

5. I have considered the mitigating submissions by both learned counsels for the parties herein. I have also considered the pre-sentence reports filed by the probation department. Under Section 205 of the Penal Code, the maximum sentence for manslaughter is life imprisonment. However, following the decision of the Supreme Court in

Francis Karioko Muruatetu & 2 Others Vs. R (2017)

eKLR, the mandatory nature of sentence was declared as unconstitutional and that the courts should receive mitigating circumstances from the offender before imposing an appropriate sentence thereafter.

It is noted from the autopsy report conducted on 23/6/2025 by Dr. Okong'o Eric of Siaya County Referral Hospital that the deceased suffered several injuries as indicated in the autopsy report. At the time of the autopsy, the pathologist made observations inter alia; that both eyes missing; tongue and left part of the mandible missing; that scalp with left frontal temporal parietal occipital region missing without the left ear, left side of the neck and anterior aspect tissues missing; traumatic amputation of the right arm and the wrist joint; amputation of the right foot. The doctor further noted that there were signs of advanced decomposition on the back and torso. The pathologist formed the opinion that the cause of death was cardio respiratory failure secondary to hemorrhage. It is clear from the injuries that the deceased died a very painful death. The assailants upon killing him dumped him inside a maize plantation without a care in the

world. Hence the injuries sustained could not give him a chance to survive.

6. As regards the sentence to be imposed, the Court of Appeal in the case of **Charo Ngumbao Gugudu Vs. R (2011) eKLR**, held as follows:

*“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender and that it is thus not proper exercise for the court to fail to look at the facts and circumstances of the case in their entirety before settling for any given sentence. See **Ambani Vs. R (1990) eKLR.**”*

It is noted that the accused persons snuffed out the life of an innocent man just because the deceased was involved in the land dispute that was then pending. Indeed, the Assistant County Commissioner had already fixed the date when the dispute could be handled. The accused persons ought to have waited for the same so that the outcome could vindicate either of the parties. The accused persons therefore were not justified to be law unto themselves and

decide to get rid of the deceased whom they saw as a hindrance regarding the land issue. Had they waited for the matter to be resolved by the Assistant County Commissioner, or take the dispute to other forums for redress, the deceased could be alive today. The deceased therefore lost his life thanks to the greed of the accused persons over the land in dispute.

7. According to the Judiciary Sentencing Policy Guidelines (2023), sentencing of offenders should take into account the following objectives:

- a) Retribution- To punish the offender for their criminal conduct in a just manner.
- b) Deterrence- To deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing offences.
- c) Rehabilitation- To enable the offender to reform from his/her criminal disposition and become a law-abiding person.
- d) Restorative justice- To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of

responsibility through the offender's contribution towards meeting those needs.

- e) Community protection- To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.
 - f) Denunciation- To clearly communicate the community's condemnation of the criminal conduct.
 - g) Reconciliation- To mend the relationship between the offender, the victim and the community.
 - h) Reintegration- To facilitate the re-entry of the offender into the society.
8. Being guided by the foregoing sentencing guidelines as juxtaposed with the pre-sentence reports, it is noted that the accused persons planned to eliminate the innocent deceased over a land dispute which had been scheduled for deliberation by the Assistant County Commissioner on 12/6/2025 when they waylaid him one week prior to the said meeting and brutally killed him. The injuries inflicted left no doubt that the accused persons actually butchered the deceased who must have undergone extreme pain before

breathing his last. The community is still aghast at what the accused herein had done and are not yet ready to receive them back any time soon. The pre-sentence reports indicated that as soon the accused killed the deceased, they acted sarcastically by urging the villagers not to mourn after the body of the deceased was recovered and which left no doubt that the accused persons have no respect for life and could kill again and again as long as opposition is made over their family's claim to the land now in dispute. The community are opposed to a non-custodial sentence in the circumstances. I find that the accused person require comprehensive custodial rehabilitation before being re-integrated back to the society. It is also noted that the accused persons have saved the court precious judicial time by pleading guilty to the substituted charge of manslaughter. It is also noted that they are remorseful over the offence. However, the conduct of the accused persons in ending the life an innocent family member for expressing his opinion regarding the status of the land which was in dispute was not warranted. The accused persons were expected to let the dispute be deliberated upon and that they would resort to all the requisite forums for redress if aggrieved by the decision

of the Assistant County Commissioner but not to silence a dissenting view preferred by the deceased by killing him. I am of the view that a sentence of thirty (30) years' imprisonment is appropriate in the circumstances.

9. In the result, I order each accused herein **Chrispin Maero Obilo alias Chris** and **Stephen Oduor Otieno alias Steve** to serve a sentence of thirty (30) years' imprisonment from the date of arrest namely 8/7/2025.

Orders accordingly.

Dated and delivered at Siaya this 10th Day of November 2025.

**D. KEMEI
JUDGE**

In the presence of:

Chrispin Maero Obilo alias Chris.....1st Accused

Stephen Oduor Otieno alias Steve.....2nd Accused

Omore Omore.....for both accused

M/s Kerubo.....for Prosecution

Kimaiyo/Maureen.....Court Assistant

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