



REPUBLIC OF KENYA



**KENYA LAW**  
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**State v Ombija (Criminal Case 13 of 2020)  
[2024] KEHC 3976 (KLR) (23 April 2024) (Resentence)**

Neutral citation: [2024] KEHC 3976 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE 13 OF 2020  
RE ABURILI, J  
APRIL 23, 2024**

**BETWEEN**

**STATE ..... PROSECUTION**

**AND**

**ABISAYE ODHIAMBO OMBIJA ..... ACCUSED**

**RESENTENCE**

1. The accused Abisaye Odhiambo Ombija was convicted of the offence of murder contrary to Section 203 of the *Penal Code*. This was on 21<sup>st</sup> March 2024.
2. He mitigated and his counsel Mr. Maua mitigated on his behalf too. He is a first offender and prays for leniency. He is a young man and that his wife left with their child to unknown destination. He wishes to go and get her back after leaving prison.
3. The Presentence report points the accused as a person of good character except wherein he took alcohol is when he became violent hence his wife left him due to violence.
4. That him and the deceased were bosom friends and neighbours. He is a breadwinner to his aged mother.
5. The deceased's family were interviewed and his mother asked for lenient sentence against the accused in view of the circumstances of this case where there are now new allegations of the family of the deceased having assaulted him and that the accused only completed the assault when he forced the deceased to return to his home. This was never part of the evidence in court.
6. The accused and deceased used to live in the same house because the deceased's house was demolished.
7. Punishment for murder is death. However, this is not mandatory and the court can impose any other sentence having regard to the circumstances of each case.



8. Taking into account all the above, I exercise discretion and sentence the accused person Abisaye Odhiambo Ombija to serve ten years imprisonment to be calculated from date of his arrest on 5<sup>th</sup> May 2020.
9. Right of Appeal is 14 days of today to the Court of Appeal.
10. This file is closed.
11. I so order.

Dated, Signed and Delivered at Kisumu this 23<sup>rd</sup> Day of April, 2024

**R.E. ABURILI**

**JUDGE**

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