

**THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT MBARARA**

CRIMINAL APPEAL NO.74 OF 2005

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CHOMBE EMMANUELAPPELLANT

V E R S U S

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UGANDARESPONDENT

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**CORAM: HON. JUSTICE A. TWINOMUJUNI, JA
 HON. JUSTICE S.B.K. KAVUMA, JA
 HON. JUSTICE M.S. ARACH AMOKO, JA**

Mr. Vincent Okwanga Senior Principal State Attorney, for the respondent.

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Ms Lydia Ahibisibwe, for the appellant on State brief

Ms Lydia Tuhirwe Court Clerk.

Ms Ahibisibwe:

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Ground 1.:

The trial judge entered a plea of guilty erroneously. At page 1 the Court asked what language the appellant spoke. There was no answer recorded. Even on the 2nd page, it was not specified.

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After re-interviewing the appellant who had told me in broken Kinyankole that he is a Munyala. Now I know that he is an Alur and he is an Alur, I wish to abandon ground I of the appeal. I had earlier abandoned ground two but now I ask Court to permit me to argue ground II.

Court:

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Ground I abandoned. Counsel to argue ground II of the appeal.

Ahimbisimbwe:

The appellant was given a sentence of 15 years which was too harsh. The victim was aged 7 years old the appellant was aged 30 years old. He did not waste the Court's time. He said he
5 knew what he did and pleaded guilty. He was remorseful and pleaded guilty quickly. Pray you reconsider the sentence and vary the sentence to 5 years imprisonment.

Mr. Okwanga:

10 A sentence of 15 years was fair in the circumstances. It is not harsh as the maximum sentence was death. The Court did consider his prayer for leniency which took care of all legitimate mitigation factors. The victim was too young at 7 years. The appellant was a married man with children. Pray you do not disturb the sentence as no cause has been shown. See authority of **Mbora Issa vs Uganda Cr. Appeal No.14/2001.** which was similar. 15 years sentence was
15 upheld where the victim was 10 years. Pray you dismiss the appeal.

Ahimbisimbwe:

Nothing to add.

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JUDGMENT OF THE COURT:

We have listened to Ms Lydia Ahimbisimbwe learned counsel for the appellant and Mr. Vincent Okwanga learned counsel for the respondent we have also carefully perused the record of the
25 trial court. We hold the view that there is nothing in this appeal that could justify us to interfere with the sentence passed by the trial court. The High Court considered all the mitigating factors against the fact that this was an offence punishable by death. We do think that he properly weighed the ends of justice and properly came to the conclusion that 15 years imprisonment was the sentence appellant deserved. We agree. We uphold the conviction and sentence and the
30 appeal is accordingly dismissed.

Dated at Mbarara this 9th day of November 2010.

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Hon. Justice A. Twinomujuni
JUSTICE OF APPEAL

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Hon. Justice S.B.K. Kavuma
JUSTICE OF APPEAL.

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Hon. Justice M.S. Arach Amoko
JUSTICE OF APPEAL.

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