

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT MBALE

(Coram: Hellen Obura, Catherine Bamugemereire and Christopher Madrama, JJA.)

CRIMINAL APPEAL NO. 0211 OF 2011

5 **1. OPENDI MICHAEL**

2. OKOTH VINCENT:.....APPELLANTS

VERSUS

UGANDA:.....RESPONDENT

(Appeal from the decision of the High Court of Uganda at Tororo before Mike Chibita, J (as

10 *he then was) in Criminal Session Case No. 044 of 2010 delivered on 14/09/2011.)*

JUDGMENT OF THE COURT

Introduction

The appellants were indicted, tried and convicted of the offence of murder contrary to sections 188 and 189 of the Penal Code Act before the High Court (Mike Chibita, J, (as he then was).

15 The 1st appellant was sentenced to life imprisonment while the 2nd appellant was sentenced to 14 years' imprisonment. The particulars of the offence were that Opendi Osako Michael, Okech Rueben, Okoth Vincent and others still at large, on the 28th day of February 2009 at Amagoro A Central Zone in Tororo District murdered Obbo Stephen Wekera.

Background

20 The brief facts of the case as found by the learned trial Judge were that Opendi Osako Michael and Okoth Vincent together with others at large gathered and attacked members of the deceased person's family along a common road after they had responded to an alarm by one Oyuki Andrew. In the end, Obbo Stephen lay dead having been fatally struck by Okoth Vincent

at the urging of Opendi Michael, his uncle. The appellants were arrested, indicted, tried and convicted of the offence of murder and sentenced as aforementioned.

By the time of hearing the appeal the 2nd appellant who had been sentenced to 14 years' imprisonment had been released from prison, having completed serving his sentence. His appeal was therefore dismissed for that reason. This judgment is therefore in respect of the 1st appellant's appeal. For that reason, we shall henceforth be referring to the 1st appellant as the appellant.

The appellant has appealed to this Court on only one ground on sentence and the ground of appeal is;

10 ***“That the learned trial Judge erred in law and fact when he meted out a manifestly harsh and excessive sentence of life imprisonment against (A1) the 1st Appellant.”***

Representation

At the hearing, Ms. Luchivya Faith represented the appellant on State Brief whereas Aliwali Kizito, Chief State Attorney from the Office of the Director of Public Prosecutions (ODPP) appeared for the respondent. The appellant was present in Court. Counsel for the appellant sought and was granted leave to appeal out of time and against sentence only under **rules 5 and 43 (a) of the Judicature (Court of Appeal Rules) Directions** (the Rules). Counsel for both sides filed written submissions which were adopted and have been considered in this judgment.

Appellants' Submissions

It was submitted for the appellant that the Supreme Court in **Tigo Stephen vs Uganda (Criminal Appeal No. 08 of 2009) [2011] UGSC 7 (10 May 2011)**; held that; life imprisonment means imprisonment for the natural life term of a convict, though the actual period of imprisonment may stand reduced on account of remissions earned.