IN THE HIGH COURT OF UGANDA SITTING AT GULU

Reportable
Criminal Sessions Case No. 0080 of 2017

In the matter between

UGANDA **PROSECUTOR**

And

OCEN IVAN **ACCUSED**

Heard: 15 November, 2019.

Delivered: 19 November, 2019.

Criminal Law: *Aggravated Defilement — the prosecution must prove that the victim was below 14 years of age, that a sexual act was performed on the victim and that it is the accused who performed the sexual act on the victim.*
Criminal Procedure *— Sentencing — a death sentence is not to be pronounced on or recorded against a person convicted of an offence punishable by death, if it appears to the court that at the time when the offence was committed the convicted person was below the age of eighteen years.*

JUDGMENT

STEPHEN MUBIRU, J.

Introduction:

[1] The accused is indicted with one count of Aggravated Defilement c/s 129 (3) and (4) (a) of the *Penal Code Act*. It is alleged that the accused on the 24th November, 2016 at Kal Central "A" staff Quarters, Kal Parish, Palabek Kal sub-

county, Lamwo District, performed an unlawful sexual act with Atim Abigail Daisy, a girl aged seven months.

[2] The prosecution case is that in the early evening hours of 24th November, 2016 P.W.2 Anena Robinah , a nurse attached to Palabek Health Centre III and the victim's mother, went with the victim to the home of her co-worker, D.W.2 Akumu Concy, a cleaner at Palabek Health Centre III and mother of the accused, where they had supper together within the staff quarters. At about 8.00 pm P.W.2 Anena Robinah returned to her home accompanied by the accused. At her home she bathed the child first and then went out for a short call, leaving the child naked inside the house with the accused. She asked the accused to help her look after the child. After the short call, she returned to the house where she found the light to her bedroom was switched off yet she had left it on when she went out. She met the accused coming out of her bedroom carrying the child against his chest. It appeared to her the child had been crying and the accused had tried to wipe the tears away. The mouth of the child was wet with saliva. She was still naked. She asked him what he had been doing in her bedroom that prompted him to switch off the light. He kept quiet. As he came out of the bedroom, she noticed a milky substance in his palm. He suspected him to have defiled the child.

[3] She picked up the child and checked her private parts which she found to be wet, there was a blood stain and the parts appeared reddish with tears to the outer parts. She did this inspection from the sitting room while the accused was standing next to the chair near her. She was aided by light coming from a solar lit bulb. She told him she suspected he had defiled her daughter but he kept quiet. She called my neighbour P.W.3 Lamunu Irene, midwife attached to the same Palabek Health Centre III, immediately. She carried the child and she too began examining the child. The private parts were still wet as she had found them, with a slippery fluid. What she saw was not water after left after bathing the child but it was whitish. She suspected it was semen. P.W.3 Lamunu Irene told the accused

to go out as she examined the child and later she called him back in and asked him what happened. The accused said he tried to put his penis into the baby's vagina but found it was difficult and instead he began to kiss the child. That he then ejaculated in his hand. He then asked for forgiveness for he did not know what came into his mind. P.W.3 Lamunu Irene then suggested that the mother of the accused should be called. Alana Isaac, brother of the accused, called D.W.2 Akumu Concy. The mother began asking the accused in the presence of both P.W.2 Anena Robinah and P.W.3 Lamunu Irene, and the accused reiterated that he had tried to have sex with the child but he could not penetrate and he instead ejaculated into his palm. The mother asked for forgiveness. The following day P.W.2 Anena Robinah took the child to hospital for examination and eventually reported to the police that day, 25th November, 2016. The accused was arrested that day and taken to Palabek Police post

[4] In his defence the accused denied having committed the offence. He testified that P.W.2 Anena Robinah left their home at around 9.00 pm after they had shared a meal. He escorted her back home with Abigail, the victim in this case. He had picked a basin intending to go and bathe when P.W.2 Anena Robinah asked him to go to her place without telling him why. He initially declined but his mother told him to go with her. He went but his brother Alana Isaac followed them. He left the basin at the veranda of their home. When they arrived at the home of Abigail's mother, P.W.2 Anena Robinah placed Abigail on the floor. She gave a bucket to Alana Isaac, who went to bathe. The accused remained outside the house. Abigail's mother was inside the house. She told the accused to enter inside and wait for Isaac from there, and the accused entered into the house. P.W.2 Anena Robinah was seated down with Abigail.

[5] The accused picked her phone on a box near a bench where he was seated and began playing games with it. It was an "itel" phone and he played "Ninja Dash." She said she was going out to throw away pads in the latrine. It is not true that he had sex with the girl during her absence. Abigail began crawling towards the

charcoal stove. The accused stopped her from continuing by carrying her. She had a skirt but the chest was bare. She began crying. The accused was standing inside the house while carrying the baby against his chest. The baby began suckling his shoulder. She was seven months old. Her mother came back within five minutes. She found the accused carrying the child. He was in the sitting room bear the bench. She picked the child from the accused and told him to get out. The accused did not know why she sent him outside but he went out. The accused waited for his brother who had gone to bathe. The baby's mouth was wet from sucking his shoulder. He did not kiss the mouth of the girl. He did not touch his private parts when he was inside the house. He only touched them as he was bathing. He had just began to bathe when he was called from the veranda by P.W.3. Lamunu Irene. He stopped bathing and dressed up. P.W.3. told him to sit down while P.W.2 Anena Robinah closed the door. His brother stood by the window which was closed.

[6] P.W.2 Anena Robinah asked him what he had done to the child. It was coming to 10.00 pm. He told her he had not done anything to her. P.W.2 Anena Robinah said that she found the accused coming out of her bedroom and he had switched off the light. The accused told her he had had not entered her bedroom and there was no light in the bedroom. The door to the bedroom was ajar and there was no curtain. He did not see anything in the bedroom. P.W.2 Anena Robinah then said that since the accused was denying having committed the offence he would take him to the police and he would be sentenced to life. The accused nevertheless refused to admit. P.W.3. Lamunu Irene persuaded him to accept so that the victim's father is not told and he would not be sentenced to life, but he kept quiet. He had never been interrogated like this before. He did not accept anything. P.W.3 Lamunu then went out and later returned, pricked his finger and placed two droplets of his blood on plastic gadget about the length of his little finger. Both P.W.2 Anena Robinah and P.W.3. Lamunu Irene went out with it and did not show him the results. He had undergone such a test before when he wanted

to know his health status while a pupil in P.7 and he had asked his mother who permitted him and a similar thing had been done.

[7] When the two went out with his blood sample they did not come back. D.W.2 Akumu Concy, the mother of the accused, then came to the home of P.W.2 Anena Robinah at 10.00 pm. By then the accused was still inside P.W.2 Anena Robinah's house alone. Abigail had been carried away by her mother when they both went out of the house. He had remained in the house alone for about five minutes by the time his mother came into the house. She entered alone. Isaac remained outside. His mother, D.W.2 Akumu Concy asked him what had happened. He told her that he had not done anything at all. She told him to tell the truth to her. He told her the truth that he had not done anything. His mother then called the two ladies back into the house. His mother again asked him what he had done. He told her nothing that had happened. Then P.W.2 Anena Robinah picked a knife and said that she should have him cut to death. This was in the putrescence of the rest of the people. She was carrying Abigail after removing her from her back.

[8] D.W.2 Akumu Concy never had opportunity to examine the baby in the presence of the accused. From there they went back home with Isaac and his mother. The next day he went to the Health Centre to obtain money from his mother to buy a pen, and proceeded to school. He was arrested in the evening of that day upon return home from school. I was taken to the police station at Palabek where he spent the night in the cell. The following day I was taken to Padibe Police Station where he was kept for almost three weeks. He was taken to the hospital, at Padibe Health Centre II. He had never been accused before of a similar offence. His mother works at the same health Centre with P.W.2 Anena Robinah, as a cleaner. The allegation against him is not true. He did not know of any reason why he was falsely accused.

Burden of proof

[9] The prosecution has the burden of proving the case against the accused beyond reasonable doubt. The burden does not shift to the accused person and the accused is only convicted on the strength of the prosecution case and not because of weaknesses in his defence, *(See Ssekitoleko v. Uganda [1967] EA 531).* By his plea of not guilty, the accused put in issue each and every essential ingredient of the offence with which he is charged and the prosecution has the onus to prove each of the ingredients beyond reasonable doubt. Proof beyond reasonable doubt though does not mean proof beyond a shadow of doubt. The standard is satisfied once all evidence suggesting the innocence of the accused, at its best creates a mere fanciful possibility but not any probability that the accused is innocent, *(see Miller v. Minister of Pensions [1947] 2 ALL ER 372).*

Ingredients of the offence

[10] For the accused to be convicted of Aggravated Defilement, the prosecution must prove each of the following essential ingredients beyond reasonable doubt;

1. That the victim was below 14 years of age.
2. That a sexual act was performed on the victim.
3. That it is the accused who performed the sexual act on the victim.

a) That the victim was below 14 years of age

[11] The first ingredient of the offence of Aggravated defilement is proof of the fact that at the time of the offence, the victim was below the age of 14 years. The most reliable way of proving the age of a child is by the production of her birth certificate, followed by the testimony of the parents. It has however been held that other ways of proving the age of a child can be equally conclusive such as the court's own observation and common sense assessment of the age of the

child *(See Uganda v. Kagoro Godfrey H.C. Crim. Session Case No. 141 of 2002).*

[12] In this case the victim, Atim Abigail Daisy, did not testify but appeared with her mother in court when the mother came to testify. She carried her on her lap and she was asleep most of the time. Her mother P.W.2 Anena Robinah testified that the victim was born on 3rd April, 2016 (implying that by the date of the incident she was aged slightly over seven months). This was corroborated by the evidence of P.W.4 Omony Mark a Medical Clinical Officer then at Palabek Kal Health Centre III who on 25th November, 2016 (a day after the incident) examined the victim, in his report P.F. 3A (exhibit P. Ex.2), he indicated that he found her to be "a breastfeeding child of seven months and two weeks baby." The court had the opportunity to see her when she appeared with her mother, and indeed the status of her physical development matched the age attributed to her. In agreement with the assessors, I find that on basis of that evidence the prosecution has proved beyond reasonable doubt that Atim Abigail Daisy was a girl below fourteen years as at 24th November, 2016.

b) <u>That a sexual act was performed on the victim</u>.

[13] The second ingredient required for establishing this offence is proof that the victim was subjected to a sexual act. One of the definitions of a sexual act under section 129 (7) of the *Penal Code Act* is penetration of the vagina, however slight by the sexual organ of another or unlawful use of any object or organ on another person's sexual organ. Proof of penetration is normally established by the victim's evidence, medical evidence and any other cogent evidence, (See *Remigious Kiwanuka v. Uganda; S. C. Crim. Appeal No. 41 of 1995 (Unreported)*. The slightest penetration is enough to prove the ingredient.

[14] The victim in this case did not testify due to her age. Her mother P.W.2 Anena Robinah testified that she had just bathed her and left her naked in the house

when she went out briefly to the toilet. On return, she found her being carried by the accused against his chest, she appeared to have been crying with an attempt to wipe away her tears, the right palm of the accused had a whitish watery substance that looked like semen, the mouth of the child was wet with what appeared to be saliva. She suspected the child had been defiled. On checking her private parts she saw a smear of what appeared to be semen, the vagina was inflamed and reddish in colour, a tear on the outer parts of her private parts, she also saw a blood stain. P.W.3 Lamunu Irene, a midwife at the same health facility testified that upon being called by P.W.2 to examine the child, she saw a tear beneath the vagina, the vulva was enlarged and reddish. P.W.4 Omony Mark a Medical Clinical Officer then at Palabek Kal Health Centre III who on 25th November, 2016 (a day after the incident) examined her in his report P.F.3A (exhibit P. Ex.2) indicated that "the breastfeeding child [was] in pain crying while [on] touching the vaginal orifice stain of blood and semen noticed at the vulva....[the] young child is normal but crying so much...tear of the vulva of 2 cm with smear of semen at the vulva....inflamed [and] is due to penile penetration causing tear of labia minora....Evidence of sperm noticed on the vulva."

[15] The defence contests this element contending the signs seen are a fabrication. They did not exist. It relied on exhibit D. Ex.1, medical treatment notes from St. Joseph's Hospital Kitgum dated 29th November, 2016 (five days after the incident) indicating that "no abnormality [was] seen, no bruising seen....vulva and *introitus* feels intact, no bleeding or bruising seen...has 2 lacerations around anus posteriorly. Anal sphincter is intact, no bleeding seen. Fissure seen below the anal sphincter." Although the author of the report was never called to testify, the defence argues that this report contradicts the observations allegedly made by P.W.2 Anena Robinah, P.W.3 Lamunu Irene and P.W.4 Omony Mark. Counsel for the accused contended that the child could not have healed within five days to leave no trace of the injuries allegedly seen by the three witnesses. The manner in which the child was carried on the back and across the chest is inconsistent

with such a severe tear. It was insinuated that being their boss, P.W.2 Anena Robinah fabricated the story and influenced what was seen by the other two.

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[16] To constitute a sexual act, it is not necessary to prove that there was deep penetration, the use of a sexual organ, the emission of seed or breaking of the hymen. The slightest penetration is sufficient (*see Gerald Gwayambadde v. Uganda [1970] HCB 156; Christopher Byamugisha v. Uganda [1976] HCB 317; and Uganda v. Odwong Devis and Another [1992-93] HCB 70).*

[17] In his defence, the accused only denied having had sex with the girl with whom P.W.2 Anena Robinah testified that she left him alone inside the house with the child yet there is no evidence to suggest that there was any other male who entered the house at the material time. The brief period of approximately five minutes the accused was with the child excludes proximity to the child by any other male. I have found no reason why the mother of the victim and P.W.3 Lamunu Irene would fabricate evidence of the injuries they saw in the private parts of the child. Their observations are corroborated by the medical report of P.W.4 Omony Mark, and he was never discredited by cross-examination. I have rejected that tendered by the defence since the author was never called to testify. The circumstantial evidence of the accused having been found coming out of the bedroom, having switched off the light therein, the whitish slimy substance in his right had, the wet lips of the child and his demeanour all further corroborate the prosecution version. Therefore, in agreement with both assessors, I find that this ingredient as well has been proved beyond reasonable doubt.

c) <u>That it is the accused who performed the sexual act on the victim.</u>

[18] The last essential ingredient required for proving this offence is that it is the accused that performed the sexual act on the victim. This ingredient is satisfied by adducing evidence, direct or circumstantial, placing the accused at the scene of crime. The accused denied having committed the offence. He claims that he

was framed by the mother of the victim. He admits having been at the home of P.W.2 Anena Robinah. He admits having been found carrying the child against his chest but only because he had just stopped her from crawling towards a burning charcoal stove. She began crying and he had to soothe her until she stopped crying. He carried her in the left arm against his chest while he played a game of "Ninja Dash" on the complainant's "itel" phone with his right hand. He was surprised that when the complainant walked back into the room she began accusing him of having defiled the child, yet the child was wearing a skirt and had diapers on. The child had been sucking at his shoulder and that explained the wetness around her mouth. The complainant threatened her with a knife but still he denied having committed the offence. His mother was called and the complainant continued to threaten her with a knife but still he denied having committed the offence. He does not know why he was falsely accused. His mother D.W.2 Akumu Concy corroborated the fact that P.W.2 Anena Robinah threatened the accused with a knife but still he denied having committed the offence. She too does not know why he was falsely accused. The younger brother of the accused D.W.3 Isaac Alana too corroborated the fact that she heard P.W.2 Anena Robinah threaten the accused with a knife before he run to call his mother to the scene.

[19] To refute that defence there is the oral testimony of P.W.2 Anena Robinah who stated that upon returning from the toilet, she found the accused coming from her bedroom. He had switched off the light and was carrying the child against his chest. The child appeared to have been crying and an attempt made to wipe the tears away. Her mouth was wet and the accused had a whitish watery substance in his right hand. Upon checking the private parts she found signs consistent with recent sexual intercourse. On questioning the accused he admitted having taken the child into her bedroom, switched off the light and began defiling her. When he failed to achieve penetration and since the child was crying, he muffled her cries by kissing her. He then carried her while he continued to kiss her and masturbate with his right hand until he ejaculated in his right palm. P.W.3 Lamunu Irene, a

midwife at the same health facility testified that upon observing a tear beneath the vagina and that the vulva was enlarged and reddish, he asked the accused whether it was true that he had defiled the child. He initially denied. She asked the complainant to step out following which the accused confessed to her. The mother of the accused was summoned and the accused repeated the same narration in her presence. None of the two prosecution witnesses was cross-examined regarding the allegation of having threatened the accused into that confession. The prosecution argues that the subsequent conduct of the accused in not attempting to flee is inconsistent with the alleged guilt of the accused. The prosecution argues further that the posture in which his mother D.W.2 Akumu Concy found him with his elbows on his knees and head lowered into his palms was that of a person resigned to his fate. There is no possibility of mistaken identification yet the allegation of fabrication of the case is incredible.

Order:

[20] In the final result, I find that the prosecution has proved all the essential ingredients of the offence beyond reasonable doubt and I hereby find the accused guilty and convict him for the offence of Aggravated Defilement c/s 129 (3) and (4) (a) of the *Penal Code Act.*

SENTENCE AND REASONS FOR SENTENCE

[21] According to section 129 (3), the maximum penalty for the offence of Aggravated Defilement c/s 129 (3) and (4) (a) of the *Penal Code Act,* is death. However, according to section 104 (A) (1) of *The Children Act*, a death sentence is not to be pronounced on or recorded against a person convicted of an offence punishable by death, if it appears to the court that at the time when the offence was committed the convicted person was below the age of eighteen years. The

alternative is provided for by section 94 (1) (g) of *The Children Act*, which states that in such instances the maximum period of detention is to be three years.

[22] Three factors distinguish juveniles from adults convicted of similar crimes: lack of maturity, increased vulnerability to environmental influences, and likelihood of reform. Juveniles are more vulnerable to negative peer and family influences. These factors lessen a child's moral culpability and enhance the prospect that those deficiencies will be reformed. On account of children's diminished culpability and heightened capacity for reform, by statute children are different from adults for sentencing purposes. Sentencing a juvenile offender to three years in a children detention facility is the most severe criminal penalty available. Whereas the maximum punishment for a juvenile offender found responsible for an offence punishable by death is three years' detention, section 94 (1) (g) of *The Children Act* provides that detention shall be a matter of last resort and shall only be made after careful consideration and after all other reasonable alternatives have been tried and where the gravity of the offence warrants the order.

[23] In arriving at an appropriate disposition order, the court will take into account the aggravating and mitigating factors relevant to the offence charged, the character of the offender, including but not limited to the facts and circumstances of the crime, the criminal history of the offender, the offender's level of family support, social history, the offender's record while on remand, the offender's ability to appreciate the risks and consequences of the conduct, the degree of criminal sophistication exhibited by the offender, the degree of responsibility the offender was capable of exercising, the offender's chances of being rehabilitated, the physical, psychological and economic impact of the offense on the victim and the community, and such other factors as the court may deem relevant. Orders imposing the maximum period of detention should normally be reserved for the worst offenders and the worst cases.

[24] Orders of that kind may be justified where the offence was committed with brutality, or where the prospects of the juvenile offender reforming through non-custodial interventions are negligible, or where the court assesses the risk posed by the juvenile offender and decides that he or she will probably re-offend and be a danger to the public for a considerable time to come. In such cases, maximum incapacitation is desirable. In cases of a grave nature but where the court forms the opinion that they were only the consequence of unfortunate yet transient immaturity of youth, from that maximum point the sentence should be graduated and proportional to the offender and the gravity of the offence, with a view to strike a balance between the need for public safety and that of rehabilitating the juvenile offender. A distinction must be made between the juvenile offender whose crime reflects unfortunate yet transient immaturity of youth from the rare juvenile offender whose crime reflects a deep-seated depravity. In the instant case, the juvenile offender defiled a child aged only seven months for which reason the gravity of the offence warrants an order of detention and I thus consider a two (3) year period of detention to be appropriate for this offender.

[25] In accordance with section 94 (3) of *The Children Act*, to the effect that where a child has been remanded in custody prior to an order of detention being made in respect of the child, the period spent on remand shall be taken into consideration when making the order. In *Kizito Senkula v. Uganda S.C. Criminal Appeal No.24 of 2001*; *Kabuye Senvawo v. Uganda, S.C. Criminal Appeal No.2 of 2002*; *Katende Ahamed v. Uganda, S.C. Criminal Appeal No.6 of 200*4 and *Bukenya Joseph v. Uganda, S.C. Criminal Appeal No.17 of 2010*, a view was taken by the Supreme Court that “taking into consideration" of the time spent on remand does not necessitate a sentencing Court to apply a mathematical formula.

[26] That position was departed from in *Rwabugande Moses v. Uganda, SC. Cr. Appeal No. 25 of 2014* decided on 3rd March 2017, the Supreme Court found it right to depart from the Court’s earlier decisions mentioned above in which it was held that consideration of the time spent on remand does not necessitate a

sentencing court to apply a mathematical formula. It was the view of the court that the taking into account of the period spent on remand by a court is necessarily arithmetical. This is because the period is known with certainty and precision; consideration of the remand period should therefore necessarily mean reducing or subtracting that period from the final sentence. That period spent in lawful custody prior to the trial must be specifically credited to an accused. This was justified as being consistent with Guideline 15 of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*. A sentence couched in general terms that court has taken into account the time the accused has spent on remand was considered to be ambiguous. In such circumstances, it could not be unequivocally ascertained that the court accounted for the remand period in arriving at the final sentence. This was followed in *Mumbere Julius v. Uganda S.C. Criminal Appeal No. 15 of 2014*, decided on 9th April 2018.

[27] However in a decision delivered on the same day by a different panel, the Supreme Court reverted to its earlier interpretation. This was in the case of *Tukamuhebwa David Junior and another v. Uganda, S.C Criminal Appeal No.59 of 2016* decided on 9th April, 2018 where it was held that to take into account is to bear in mind or consider or be alive to the remand period before imposing a sentence. The same position was taken in *Abelle v. Uganda, S.C. Cr. Appeal No. 66 of 2016* decided on 19th April, 2018 where it was decided that The Constitution provides that the sentencing Court must take into account the period spent on remand. It does not provide that the taking into account has to be done in an arithmetical way. The words to deduct and in an arithmetical way were only used as a guide for the sentencing Courts but those metaphors are not derived from the Constitution. It was specifically stated that the arithmetical deduction method applied to decisions delivered after 3rd March 2017. This interpretation was followed by the Court of appeal in its judgment delivered on 23rd July 2019 in the case of *Ederema Tomasi v. Uganda, C.A Criminal Appeal No. 554 of 2014*.

[28] Article 40 of the United Nations *Convention on the Rights of the Child (1989)* emphasises that the primary aim of juvenile justice is the rehabilitation and reintegration of the child into society. This establishes the right of a child to be treated in a manner consistent with the child's age. The United Nations *Standard Minimum Rules for the Administration of Juvenile Justice, 1985* (Beijing Rules) state that the aims of a juvenile justice system are to "emphasise the well-being of the juvenile and to ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence" (see r 5 (1) thereof). Rule17.1 (b) further states that "restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum." Similarly, the United Nations *Guidelines for the Prevention of Juvenile Delinquency, 1990* (The Riyadh Guidelines) provide that "deprivation of liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases." Accordingly, the juvenile justice system is very different from the adult criminal justice system because juvenile justice focuses on rehabilitation, promotes the reintegration of the juvenile into his family and community, while the adult system focuses primarily on punishment.

[29] In the instant case, although the accused committed the offence as a juvenile, but he has been tried and convicted as an adult. Although the well-being and the needs of a juvenile are therefore important considerations in the determination of an appropriate sentence, in the circumstances of this case where the convict at the time of sentencing is no longer a juvenile and the offence he committed is of such a heinous magnitude, the court is required to fashion out an individualised response which is not only in proportion to the nature and gravity of the offence and the needs of society, but which was also appropriate to the nature and interest of the offender who was a juvenile at the time he committed the offence. From the facts of the case, I consider the convict to be a danger to society yet the court has not been furnished with information on any reasonable prospect of his rehabilitation. The court is entitled, in exceptional circumstances such as this,

to impose the maximum sentence possible for a juvenile, where on consideration of all the circumstances, it is satisfied that a lesser sentence would be unjust in that it would be disproportional to the crime, the criminal and the needs of society.

[30] I note that the convict has been in custody since 25th May, 2017. I hereby take into account and set off one year and two months as the period the juvenile offender has already spent on remand. Having taken into account that period, I therefore sentence the accused to a term of imprisonment of two (2) years and six (6) months, to be served starting today.

[31] The convict is advised that he has a right of appeal against both conviction and sentence within a period of fourteen days

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Stephen Mubiru

Resident Judge, Gulu

Appearances

For the accused : Mr. Jude Ogik, on State brief

For the State : Mr. Muzige Hamza, Resident State Attorney.