

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT GULU**  
**CRIMINAL CASE No. 0239 OF 2019**

UGANDA ..... PROSECUTOR

5

**VERSUS**

1. **ORACH JOHN** }  
2. **OBEDI ALFRED** } ..... **ACCUSED**  
10 3. **OJOK RICHARD** }

**Before: Hon Justice Stephen Mubiru.**

**PROCEEDINGS**

15 8<sup>th</sup> July, 2020  
11.22 am  
Attendance

Mr. Kilama Stephen, Court Clerk.  
Mr. Omia Patrick, Resident State Attorney for the Prosecution.  
20 Mr. Walter Okidi Ladwar, Counsel for the accused.  
The accused is present in court

**A3 Ojok Richard:** I speak Acholi.

**State Attorney:** we have negotiated a plea bargain and accordingly executed a plea  
25 agreement which I pray to present to court.

**Counsel for the accused:** That is correct.

**Accused:** I signed the agreement willingly at pages 5. My constitutional rights were  
explained to me and I willingly waived them fully cognisant of the  
consequences of signing the plea agreement.

30 **Court:** The agreement is received and hereby forms part of the court record.

.....  
Stephen Mubiru  
Judge  
8<sup>th</sup> July, 2020.

35 **Court:** The Indictment is read and explained to the accused in the Acholi language.

**Details;** Murder C/s 188 and 189 of *The Penal Code Act*. It is alleged that the accused on the 9<sup>th</sup> day of August, 2018 at Te-beyo village, in Pader District murdered Omona Christopher.

5 **Accused:** I have understood the indictment. It is true.

**Court:** A plea of guilty is entered.

.....  
Stephen Mubiru  
Judge  
8<sup>th</sup> July, 2020.

10

**State Attorney:** On the night of 8<sup>th</sup> August, 2018 at around 8.00 pm the accused together with two others went to the home of the deceased. They arrested him on accusation of having stolen a goat, the property of one Nyeko Walter. The accused and others took the deceased to the home of Nyeko Walter from where they began assaulting the deceased. The assault continued up to the home of one of the co-accused where he spent the night. The following morning the accused set of to take him to the police station but he collapsed and died along the way. A post mortem was undertaken and it was found she died of; fracture of the skull, fracture of the neck, brain injury leading to multiple organ failure as a result of blunt force trauma. The cause of death was multiple organ failure die to fractured neck. There was also excessive bleeding. The accused was arrested and subjected to medical examination whereupon he was found to be 27 years old and of sound mind. He had no injuries.

15

20

25

**State Attorney:** I pray to tender in the medical forms.

**Defence Counsel:** I have no objection.

**Court:** They are received as part of the facts and are marked P. Ex.1 and P. Ex.2 respectively.

30

.....  
Stephen Mubiru  
Judge  
8<sup>th</sup> July, 2020.

**Accused:** I have understood the facts. They are correct.

**Court:** The accused is convicted on his own plea of guilty for the offence of Murder c/s 188 and 189 of *The Penal Code Act*.

5 .....

Stephen Mubiru  
Judge  
8<sup>th</sup> July, 2020.

10 **State Attorney:** the aggravating factors are that the convict inflicted grave injuries in a prolonged assault, took the law into their own hands based on suspicion resulting into death.

**Counsel for the accused:** the mitigation is that he readily pleaded guilty, he is a first time offender, he is relatively youthful at 28 years of age, and is remorseful.

15

**Accused:** I pray for mercy and so that I can go back and raise my children. I was taking care of orphans. My mother is alone and disabled.

**SENTENCE AND REASONS FOR THE SENTENCE**

20 The offence of murder is punishable by the maximum penalty of death as provided for under section 189 of the *Penal Code Act*. However, this represents the maximum sentence which is usually reserved for the worst of the worst cases of Murder. This is not one of such cases, and it is for that reason that the death sentence was discounted, giving way to a plea bargain.

25 Where the death penalty is not imposed, the starting point in the determination of a custodial sentence for offences of murder has been prescribed by Item 1 of Part I (under Sentencing ranges - Sentencing range in capital offences) of the Third Schedule of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013* as 35 years' imprisonment. I

30 have taken into account the current sentencing practices in relation to cases of this nature. I have thus adopted a starting point of a range of 30 – 35 years' imprisonment.

From this, the convict is entitled to a discount for having pleaded guilty. The practice of taking guilty pleas into consideration is a long standing convention which now has a near statutory footing by virtue of regulation 21 (k) of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*. As a general principle (rather than a matter of law though) an offender who pleads guilty may expect some credit in the form of a discount in sentence. The requirement in the guidelines for considering a plea of guilty as a mitigating factor is a mere guide and does not confer a statutory right to a discount which, for all intents and purposes, remains a matter for the court's discretion. However, where a judge takes a plea of guilty into account, it is important that he or she says he or she has done so (see *R v. Fearon [1996] 2 Cr. App. R (S) 25 CA*). In this case therefore I have taken into account the fact that the convict readily pleaded guilty as one of the factors mitigating her sentence.

The sentencing guidelines leave discretion to the Judge to determine the degree to which a sentence will be discounted by a plea of guilty. As a general, though not inflexible, rule, a reduction of one third has been held to be an appropriate discount (see: *R v. Buffrey (1993) 14 Cr App R (S) 511*). Similarly in *R v. Buffrey 14 Cr. App. R (S) 511*). The Court of Appeal in England indicated that while there was no absolute rule as to what the discount should be, as general guidance the Court believed that something of the order of one-third would be an appropriate discount. In light of the convict's plea of guilty, and persuaded by the English practice, because the convict before me pleaded guilty, I propose at this point to reduce the sentence by one third from the starting point of a range of 30 – 35 years to a range of 20 – 25 years' imprisonment, before mitigation.

Having considered the sentencing guidelines and the current sentencing practice in relation to offences of this nature, the aggravating and mitigating factors outlined above, I hereby accept the submitted plea agreement entered into by the accused, his counsel, and the State Attorney and in accordance thereto, to find the proposed sentence of twenty (20) years' imprisonment as befitting the circumstances of the case and the antecedents of the convict.

In accordance with Article 23 (8) of the Constitution and Regulation 15 (2) of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*, to the effect that

the court should deduct the period spent on remand from the sentence considered appropriate, after all factors have been taken into account, I note that the convict was charged on 28<sup>th</sup> August, 2019 and been in custody since then. I hereby take into account and set off a period of one year and eleven (11) months as the period the convict has already spent on remand. I therefore  
5 sentence the convict to a term of imprisonment of eighteen (18) years and one (1) month to be served starting today.

Having been convicted and sentenced on his own plea of guilty, the convict is advised that he has a right of appeal against the legality and severity of this sentence, within a period of fourteen  
10 days.

Dated at Gulu this 8<sup>th</sup> day of July, 2020.

.....  
Stephen Mubiru,  
Judge.  
8<sup>th</sup> July, 2020.

15

20

25

30

35

40



**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA HOLDEN**

**TO: AT GULU**

**The Officer in Charge,  
Government Prison, Gulu.**

**WARRANT OF COMMITMENT**

**WHEREAS** on the **8<sup>th</sup>** day of **July**, 2020 **OJOK RICHARD** the **3<sup>rd</sup>**  
Prisoner in Criminal Session Case No.**0239** of the Calendar Year for  
**2019** was convicted before me: Hon. Justice **STEPHEN MUBIRU**, a  
**Judge of the High Court of Uganda**, of the offence of **MURDER**  
**C/s 188 and 189** of The Penal Code Act and was sentenced to  
**EIGHTEEN (18) YEARS AND ONE (1) MONTH'S IMPRISONMENT.**

**THIS IS TO AUTHORISE AND REQUIRE YOU**, the Superintendent  
to receive the said **OJOK RICHARD** into your custody in the said  
prison together with this **Warrant** and there carry the afore said  
sentence into execution according to Law.

**GIVEN** under my Hand and the Seal of the court this **8<sup>th</sup>** day of  
**July**, 2020.

.....  
**JUDGE.**