

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA SITTING AT ARUA  
CRIMINAL CASE No. 0032 OF 2017**

**UGANDA ..... PROSECUTOR**

5

**VERSUS**

**ODONG ERICKLENT ABDULAMED ..... ACCUSED**

10 **Before: Hon Justice Stephen Mubiru.**

**SENTENCE AND REASONS FOR SENTENCE**

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15 This case has come up today 20<sup>th</sup> November, 2018 in a special session for plea bargaining. The accused is indicted with the offence of Aggravated Robbery c/s 285 and 286 (2) of *The Penal Code Act*. It is alleged that 25<sup>th</sup> August, 2016 at Keyi village ion Gulu, the accused robbed Anguparu of wallet containing shs. 30,000/= and during, immediately before or after the said ronbbery.

20 When the case was called, the learned State Resident Attorney, Ms. Catherine Nakaggwa has reported that she successfully negotiated a plea bargain with the accused and his counsel. The court has invited the State Attorney to introduce the plea agreement and obtained confirmation of this fact from defence counsel on state brief, Mr. Walter Ladwar Okidi. The court has ascertained that the accused has full understanding of what a guilty plea means and its consequences, the  
25 voluntariness of the accused’s consent to the bargain and appreciation of its implication in terms of waiver of the constitutional rights specified in the first section of the plea agreement. The Court being satisfied that there is a factual basis for the plea, and having made the finding that the accused made a knowing, voluntary, and intelligent plea bargain, and after he has executed a confirmation of the agreement, has gone ahead to receive the agreement to form part of the  
30 record. The accused has then been allowed to take plea whereupon a plea of guilty has been entered.

The court has invited the learned Resident State Attorney to narrate the factual basis for the guilty plea, whereupon she has narrated the following facts; on 25<sup>th</sup> August, 2016 at Keyi village ion Gulu at around midnight the victim was riding a motorcycle when he met the accused who  
5 hit him with an iron bar on the head and took his wallet containing shs. 30,000/= the matter was reported at Gulu Police Station and the victim upon examination was found with wounds on the head and was charged accordingly. The respective medical examination reports too have been admitted as part of the facts.

10 Upon ascertaining from the accused that the facts as stated are correct, he has been convicted on his own plea of guilty for the offence of Aggravated Robbery c/s 285 and 286 (2) of *The Penal Code Act*. In justification of the sentence of seven (7) years' imprisonment proposed in the plea agreement, the learned Resident State Attorney has stated that; he used a dangerous weapon, an iron bar. He hit the victim on the head which is sensitive part of the body. Learned defence  
15 counsel has stated the key mitigating factors considered to have been that; he is remorseful, he is still a young person at the age of 26 years and is able to reform. The accused had nothing to add by way of *allocutus*.

I have reviewed the proposed sentence of seven years' imprisonment in light of *The Constitution*  
20 (*Sentencing Guidelines for Courts of Judicature*) (*Practice*) *Directions, 2013*. I have also reviewed current sentencing practices for offences of this nature. In this regard, I have considered the case of *Uganda v. Ongodia, H.C. Crim. Sessions Case No. 21 of 2012* where the High Court sentenced a UPDF soldier convicted of aggravated robbery to 15 years' imprisonment. He was a first offender who admitted the offence on arrest, pleaded guilty on  
25 arraignment and had spent a period of 5 years on remand. In *Kusemererwa and Another v. Uganda C.A. Crim. Appeal No. 83 of 2010*, the Court of Appeal substituted a sentence of 20 years' imprisonment that had been imposed upon each of the appellants with one of 13 years' imprisonment, on grounds that it was manifestly excessive.

30 A plea of guilty offered readily before commencement of trial usually results in a discount of anywhere up to a third of the sentence that would otherwise be imposed after a full trial. Having

considered the sentencing guidelines and the current sentencing practice in relation to offences of this nature, I consider the sentence proposed in the plea agreement entered into by the accused, his counsel, and the State Attorney to be appropriate.

5 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 observe that the convict has been in custody since 15<sup>th</sup> September, 2016 and I hereby take into account and set off two years and two months as the  
10 period the convict has already spent on remand. I therefore sentence the convict to a term of imprisonment of four (4) years and ten (10) months 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  
15 days.

Dated at Gulu this 20<sup>th</sup> day of November, 2018

Stephen Mubiru

Judge,

20 20<sup>th</sup> November, 2018.