

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT ADJUMANI**  
**CRIMINAL SESSION CASES No. 0011 OF 2016 AND No. 0018 OF 2018**

**UGANDA** ..... **PROSECUTOR**

5 **VERSUS**

**A1. AMBAYO CHARLES EBI** } ..... **ACCUSED**  
**A2. ABIRIGA ALFRED** }

**Before Hon. Justice Stephen Mubiru**

10 **JUDGMENT**

The accused in this case were jointly indicted with one count of Murder c/s 188 and 189 of the *Penal Code Act*. It is alleged that the two accused and others still at large, on the 2<sup>nd</sup> day of January, 2015 at Angaliachini village in Moyo District murdered one Tumunik Mario.

15 The events leading to the prosecution of the accused as narrated by the prosecution witnesses are briefly that on 2<sup>nd</sup> January, 2015 at around 8.00 pm the, deceased went to drink "Moyomoyo" alcohol at the home of Bayoia Carolina where he found her together with a one Male Victor and Mindra Joyce. They drank alcohol up to around midnight when they left the drinking place as Carolina, who was sickly, went to sleep. He sister P.W.3 Rose Abba who had come to visit and  
20 help with her chores, remained outdoors tending to the fire for brewing Carolina's "Moyomoyo."

Shortly after Rose Abba heard voices of Ambayo Charles Ebi (A1) and Logurian while running after the deceased as they kept repeatedly saying that the deceased said they are his Mchomo. Since it was late in the night, Carolina could not come out but Abba Rose who was outside at the  
25 same home of Carolina saw Abiriga Alfred (A2) together with Ambayo Charles (A1) and three other persons chasing the deceased. She saw Ambayo Charles hit the deceased on his head with a stick while Abiriga Alfred was encouraging Ambayo to finish the deceased. The next morning when Mindra Joyce came out, she saw droplets of blood leading from Bayoia Carolina's home to the roadside where she found the deceased lying dead. She accordingly notified P.W.4 Komuri  
30 Jackson, a brother of the deceased, and many people gathered at the scene. They also found a

sweater belonging to the deceased and a big piece of firewood with blood stains near the body. The body of the deceased had several injuries on the head and other parts of the body. Komuri Jackson reported to the police. The body of the deceased was examined on P.F 48 B at Moyo Hospital where it was found to have blood clots, fractured jaw bone, fracture of posterior skull  
5 and deep cut wound on the medullar, swollen penis and testicles and the cause of death was found to be hemorrhagic shock due to severe bleeding. but the accused were not arrested as they were in hiding until 1<sup>st</sup> September, 2016 when Simbe James, a brother to the deceased, saw Amabyo Charles (A1) in Obongi Town. When he asked him about the death of the deceased, he at first denied but he later told him that he was forced to carry the body of the deceased from the  
10 spot where he was killed to the roadside. A1 was immediately arrested and taken to Moyo Police Station where he was charged with murder c/s 188 and 189 of *The Penal Code Act*. A1 was medically examined and found to be 35 years old and mentally normal. Later in September, 2016, A2 was arrested as well. He too was medically examined and found to be 26 years old and mentally normal.

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When the case came up for plea on 12<sup>th</sup> February, 2018, both accused persons had been separately indicted and each of them denied the indictment. The cases were fixed for hearing on 20<sup>th</sup> February, 2018 on which day the indictment was amended and they were jointly indicted on the amended indictment. Thereafter the evidence of two prosecution witnesses was admitted  
20 during the preliminary hearing and two prosecution witnesses gave *viva voce* evidence at the conclusion of which A1 Amabyo Charles alias Ebi chose to change his plea. The indictment was read to him afresh, he pleaded guilty and when he confirmed the facts as narrated above to be correct, he was convicted on his own plea of guilty for the offence of Murder c/s 188 and 189 of the *Penal Code Act*. His sentence was deferred until conclusion of the trial of A2 Abiriga Alfred.

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At the close of the prosecution case, Court found there was no case to answer in respect of A2 Abiriga Alfred. In his defence, he denied having participated in commission of the offence and testified that he spent the night of 2<sup>nd</sup> January, 2015 sleeping at his home and only saw the body of the deceased the following morning. He did not even escape from the village and went about  
30 his normal activities until his arrest nearly a year later on 5<sup>th</sup> December, 2016 on allegations that he had participated in killing the deceased.

The prosecution has the burden of proving the case against the accused beyond reasonable doubt. The burden does not shift and the accused can only be convicted on the strength of the prosecution case and not because of any weaknesses in his defence, (See *Ssekitoleko v. Uganda* [1967] EA 531). Proof beyond reasonable doubt though does not mean proof beyond a shadow  
5 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).

For the accused to be convicted of Murder, the prosecution must prove each of the following essential ingredients beyond reasonable doubt;

- 10 1. Death of a human being occurred.
2. The death was caused by some unlawful act.
3. That the unlawful act was actuated by malice aforethought; and lastly
4. That it was the accused who caused the unlawful death.

The first ingredient requires the prosecution to prove beyond reasonable doubt the death of a  
15 human being. Death may be proved by production of a post mortem report or evidence of witnesses who state that they knew the deceased and attended the burial or saw the dead body. The prosecution adduced evidence of a post mortem report dated 4<sup>th</sup> January, 2015, prepared by P.W.1 Dr. Alier Joseph a Medical Officer of Moyo Hospital, which was admitted during the preliminary hearing and marked as exhibit P.Ex.1. The body was identified to him by P.W.4  
20 Komuri Jackson, as the body of a 30 year old. He however did not insert the name of the deceased in the space reserved for that purpose on the police form.

However P.W.3 Rose Abba, a sister to Carolina, a neighbour of the deceased, who knew the deceased and saw the body at the scene testified that it was that of Tumunik Mario. This is  
25 corroborated by P.W.4 Komuri Jackson, a step-brother of the deceased, who too saw the body of the deceased at the scene on the morning of 2<sup>nd</sup> January, 2015. In his defence, the accused said he saw the body from a distance at the scene, and it is Carolina who told him it was that of Tumunik Mario. Having considered all the available evidence relating to this ingredient, in agreement with the assessors, I am satisfied that it has been proved beyond reasonable doubt that Tumunik Mario  
30 Stephen is dead.

The next ingredient requires proof beyond reasonable doubt that the death was caused by an unlawful act. It is the law that any homicide (the killing of a human being by another) is presumed to have been caused unlawfully unless it was accidental or it was authorized by law. P.W.1 who conducted the autopsy established the cause of death as “hemorrhagic shock due to  
5 severe bleeding.” Exhibit P. Ex.1 dated 4<sup>th</sup> January, 2015 contains the details of his other findings which include a “fractured jaw bone, fracture of posterior skull and deep cut wound on the medulla. Bloody clothes, swollen penis and testicles.” P.W.3 testified that she was the deceased struck on the back of his head with a piece of firewood the size of her forearm and about a metre long. The following morning when she was the body, there was blood oozing from  
10 the nose, the mouth and the back of the head. There was a wound at the back of the head.

P.W.4 too saw the body covered in blood at the scene but did not examine it closely to see whether there was any visible injury. There was a piece of wood as thick as his forearm and about a metre long near the body of the deceased and it too was covered in blood. In his defence,  
15 the accused said he saw the body from a distance at the scene, and it is Carolina who told him it was that of Tumunik Mario. There is no evidence to suggest that these injuries were self inflicted or that they were caused in a justifiable or excusable manner. In his defence of the accused did not address this element at all and neither did his counsel in cross-examination of the prosecution witnesses. Having considered all the available evidence relating to this ingredient, in agreement  
20 with the assessors, I am satisfied that it has been proved beyond reasonable doubt that the death of Tumunik Mario Stephen was caused by an unlawful act.

The prosecution is further required to prove beyond reasonable doubt that the unlawful act was actuated by malice aforethought. Malice aforethought is defined by section 191 of the *Penal  
25 Code Act* as either an intention to cause death of a person or knowledge that the act causing death will probably cause the death of some person. The question is whether whoever assaulted the deceased intended to cause death or knew that the manner and degree of assault would probably cause death. Malice aforethought is a mental element that is difficult to prove by direct evidence. Courts usually consider weapon used, the manner it was used and the part of the body of the  
30 victim that was targeted.

The weapon used to inflict the injuries indicated in the post mortem report was not exhibited in court but both P.W.3 and P.W.4 described it consistently as a piece of firewood, about the size of their forearm in thickness and a metre long. According to section 286 (3) of *The Penal Code Act*, a deadly weapon is one which is made or adapted for shooting, stabbing or cutting and any instrument which, when used for offensive purposes, is likely to cause death. From the description of the piece of wood used in assaulting the deceased, I find that it fits the legal definition of a deadly weapon in that when used for offensive purposes, it is of a nature likely to cause death, and indeed it caused death.

P.W.1 who conducted the autopsy established the cause of death as “haemorrhagic shock due to severe bleeding.” The accused did not offer any evidence on this element. According to P.W.3, the weapon used in this case (the bloodstained piece of wood seen near the body of the deceased the following morning). The manner in which it was applied (multiple fatal injuries inflicted) and the part of the body of the victim that was targeted (the head) considered alongside the ferocity with which the weapon was used as can be determined from the impact (cracked the skull and fractured jaw bone). Any person who used such a weapon to hit the back of the head of the deceased, must have foreseen that death was a probable consequence of his or her act. That act targeted a vulnerable part of the body and the evidence is capable of supporting an inference of malice aforethought. Having considered all the available evidence relating to this ingredient, in agreement with the assessors, I am satisfied that it has been proved beyond reasonable doubt that the death of Tumunik Mario Stephen was caused by an unlawful act, actuated by malice aforethought.

Lastly, the prosecution is required to prove beyond reasonable doubt that it is the accused that caused the unlawful death. There should be credible evidence placing the accused at the scene of the crime as an active participant in the commission of the offence. In his defense, he denied having participated in commission of the offence and testified that he spent the night of 2<sup>nd</sup> January, 2015 sleeping at his home and only saw the body of the deceased the following morning. He did not even escape from the village and went about his normal activities until his arrest nearly a year later on 5<sup>th</sup> December, 2016 on allegations that he had participated in killing the deceased.

To disprove his alibi, the prosecution relies on the direct evidence of one identifying witness, P.W.3 Rose Abba and on circumstantial evidence of the accused having been engaged in a fist fight with the deceased nearly a week before his killing, on 25<sup>th</sup> December, 2014. The identifying witness testified that it was past midnight when she heard noise, looked up and saw the accused as part of a group of four others chasing the deceased. When the deceased was cornered and as A1 hit him with the piece of wood, A2 the accused was encouraging him to "finish him." She stated that she was outdoors at the time, awake as she was tending to fire for brewing her then sickly sister's "Moyomoyo" liquor, there was bright moonlight, she knew the accused before, the incident happened at a distance of 10 - 12 metres from where she was and she observed what was going on up to the point the assailants carried the body to the roadside where it was found the following morning.

I have considered the inconsistency of her version of the events as narrated in court, with her statement to the police (D. Ex. 1 dated 8<sup>th</sup> December, 2016) where she said it is the accused who struck the deceased (as opposed to A1 in her testimony before court) and that she was roasting ground-nuts at the time of the incident (as opposed to tending fire for brewing her then sickly sister's "Moyomoyo" liquor in her testimony before court). It is settled law that grave inconsistencies and contradictions unless satisfactorily explained, will usually but not necessarily result in the evidence of a witness being rejected. Minor ones unless they point to deliberate untruthfulness will be ignored.

What constitutes a major contradiction will vary from case to case. The question always is whether or not the contradictory elements are material, i.e. "essential" to the determination of the case. Material aspects of evidence vary from crime to crime but, generally in a criminal trial, materiality is determined on basis of the relative importance between the point being offered by the contradictory evidence and its consequence to the determination of any of the elements necessary to be proved. It will be considered minor where it relates only on a factual issue that is not central, or that is only collateral to the outcome of the case.

I consider the inconsistencies regarding who of the two accused struck the fatal blow or the activity that was occupying the identifying witness outdoors at that time, to be minor. The former

is addressed by section 19 of *The Penal Code Act*, while the latter by the conditions favouring correct identification. Under section 19 of *The Penal Code Act*, criminal responsibility is imposed in equal measure to direct perpetrators, joint perpetrators under a common concerted plan, accessories before the offence, etc. Each of the modes of participation may, independently, give rise to criminal responsibility. Moreover, under section 20 of *The Penal Code Act*, when two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of that purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of that purpose, each of them is deemed to have committed the offence.

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Although statements made by prosecution witnesses before an investigating officer, being the earliest formal statements made by them with reference to the facts of the occurrence, are valuable material for testing the veracity of the witnesses examined in Court, with particular reference to those statements which happen to be at variance with their earlier statements, statements made during police investigation are not substantive evidence. A previous statement used to contradict a witness does not become substantive evidence but merely serves the purpose of throwing doubt on the veracity of the witness. It is for that reason that it is now well established that where a police statement is used to impeach the credibility of a witness and such statement is proved to be contradictory to his or her testimony, the court will always prefer the witness' evidence which is tested by cross-examination (see *Chemonges Fred v. Uganda, S. C. Criminal Appeal No. 12 of 2001*). The police statement, exhibit D. Ex. 1, was recorded on 8<sup>th</sup> December, 2016, in relation to an incident that had occurred on the night of 2<sup>nd</sup> January, 2015, nearly two years before. Lapses in memory regarding some of the finer details were bound to occur after that long. This witness withstood long and rigorous cross-examination on these details and from her answers and responses, I did not find any indication of deliberate untruthfulness.

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To sustain a conviction, a court may rely on identification evidence given by an eye witness to the commission of an offence. However, it is necessary, especially where the identification is made under difficult conditions, to test such evidence with the greatest care, and be sure that it is free from the possibility of a mistake. To do so, the Court evaluates the evidence having regard

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to factors that are favourable, and those that are unfavourable, to correct identification. Identification evidence should be considered with caution. There may be need to find other independent evidence to prove not only that the offence was committed but also that it was by the accused. Corroboration could be provided by circumstantial evidence of relevant events and  
5 observations by other persons that occurred around the time of the incident. However, even without corroboration, court may rely on a single identifying witness if satisfied that his or her evidence is free from error or the possibility of mistake.

I have considered the factors unfavorable to correct identification; that the incident happened late  
10 in the night and it involved some bit of commotion, and find that they are far outweighed by those in favour of correct identification. The identifying witness was awake at the time of the incident, she was outdoors and her attention was drawn to the direction of the incident by the noise. She was therefore attentive. She knew all the persons involved and named all of them, there was bright moonlight, the incident happened within a distance of 10 - 12 metres from  
15 where she was, she heard and recognized their voices and observed them from the moment they approached her direction making noise up to the time they carried the body of the deceased to the roadside. I find her testimony corroborated by the fact that the body was found the following morning at the place she stated it was carried to, a bloodstained piece of firewood was found beside it and in his defence the accused acknowledged that the witness knew him for they used to  
20 drink alcohol together from time to time and had done so the day before, on 1<sup>st</sup> January, 2016.

Under section 19 of *The Penal Code Act*, there are different modes of participation in crime; direct perpetrators, joint perpetrators under a common concerted plan, accessories before the offence, etc. Each of the modes of participation may, independently, give rise to criminal  
25 responsibility. Individual criminal responsibility can be incurred where there is either aiding or abetting, but not necessarily both. Abetting implies facilitating, encouraging, instigating or advising the commission of a crime. It involves facilitating (making it easier, smoother or possible) the commission of an act by being sympathetic thereto. Aiding means assisting (usually giving material support) or helping another to commit a crime.

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The prosecution's theory is that A2 abetted the offence. Abetting refers to any act of support in the commission of the crime. It may take the form of tangible assistance or verbal statements. It includes all acts of encouragement that substantially contribute to, or have a substantial effect on, the completion of the crime. The *actus reus* for aiding is that the accused carries out acts specifically directed to encourage or lend moral support i.e. give encouragement, or moral support which has a substantial effect on the perpetration of the crime. It must be proven that the alleged aider and abettor committed acts specifically aimed at encouraging, or lending moral support for the perpetration of a specific crime, and that this support had a substantial effect on the perpetration of the crime.

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In other words, the accused must have acted knowingly. "Knowingly" in the context of murder means knowledge of the principal offender's murderous intent. He must have carried out the act with the knowledge that it would assist in the killing of the deceased. The prosecution must prove that he had knowledge that acts he performed, would encourage the commission of the crime by the principal or that the perpetration of the crime would be the possible and foreseeable result of his conduct. The accomplice must have intended to provide encouragement, or as a minimum, accepted that such encouragement would be a possible and foreseeable consequence of his conduct.

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A distinction is to be made between aiding and abetting and participation in pursuance of a common purpose or design to commit a crime. In crimes requiring specific intent like murder, it is not necessary to prove that the aider and abettor shared the *mens rea* of the principal, but that he must have known of the principal perpetrator's specific intent. With respect to aiding and abetting murder, the only mental element required is proof that the accused knew of the murderous intent of the actual perpetrator, but he need not share this specific intent. If the accused was only aware of the criminal intent of the mob and he gave it substantial assistance or encouragement in the commission of the crime then he was only an aider and abettor but if he shared the intent of the mob, then he is criminally responsible both as a co-perpetrator and as an aider and abettor.

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27<sup>th</sup> February, 2018

9.25 am

Attendance

Ms. Baako Frances, Court Clerk.

5 Ms. Bako Jacqueline, Resident State Attorney, for the Prosecution.

Mr. Jurugo Isaac, Counsel for the accused person on state brief is absent from court

Both convicts are present in court.

Both assessors are present in court.

10 **SENTENCE AND REASONS FOR SENTENCE**

The convicts were found guilty of the offence of murder c/s 188 and 189 of the *Penal Code Act*, A1 upon a plea of guilty and A2 after a full trial. In her submissions on sentencing, the learned Resident State attorney prayed for a deterrent sentence on the following grounds; although the convicts have no previous record of conviction, the offence is rampant, the deceased was the sole bread winner for his family and they had no right to take his life. They killed him in a brutal manner. They are not remorseful. They are dangerous to the community. They deserve to be kept out of circulation by being given a deterrent sentence, of imprisonment for life as this will deter the occurrence of the offence in the community.

20 Counsel for the convicts prayed for a lenient custodial sentence the following grounds; in respect of A1, he has no previous criminal record, he is a first offender. He pleaded guilty and this is an indication that he is remorseful and regrets the offence. He has been in prison for some time and that should be considered. He is a fairly youthful person capable of reform. He deserves a lenient sentence. He proposed seven years' imprisonment. In respect of A2, he has no record of conviction. He is a fairly youthful person. He can reform and return to the community. He proposed ten years' imprisonment.

30 In his *allocutus*, A1 prayed for lenience on grounds that he has children who are now suffering at home and no one is paying their fees. He is the sole bread winner. On his part, A2 as well prayed for a lenient sentence because he is now 28 years old. He had sat his senior four examinations and was preparing to go to school. He is married with two children. His mother is now caring for them and she is elderly. He proposed seven years' imprisonment. In his victim impact statement, Mr. Komuri Jackson a brother of the deceased stated that they should be given a harsh sentence.

They were not alone in murdering his brother yet they concealed the names of the other two. They should bear the brunt of the punishment.

5 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. In light of the fact that the convict incurred only accessory liability, I have for that reason discounted the death sentence.

10 Sentencing is a reflection of more than just the seriousness of the offence. The court at this stage, in sentencing multiple convicts at the same trial where the facts permit, may take into account the degree of culpability of each of the convicts. Each of the two convicts in this case participated differently as part of the group which killed the deceased. Degree of culpability refers to factors of intent, motivation, and circumstance that bear on the convict's blameworthiness. Under the widely accepted modern hierarchy of mental states, an offender is 15 most culpable for causing harm purposely and progressively less culpable for doing so knowingly, recklessly, or negligently. Similarly, accessories are in most cases treated more leniently than the direct perpetrators.

20 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. The sentencing guidelines however have to be applied bearing in mind past precedents of courts in decisions where the facts have a resemblance to the case under trial (see *Ninsiima v. Uganda* 25 *Crim. C.A Criminal Appeal No. 180 of 2010*).

I have for that reason taken into account the current sentencing practices in relation to cases of this nature, I have considered the case of *Bukenya v. Uganda C.A Crim. Appeal No. 51 of 2007*, where in its judgment of 22<sup>nd</sup> December 2014, the Court of Appeal upheld a sentence of life 30 imprisonment for a 36 year old man convicted of murder. He had used a knife and a spear to stab the deceased, who was his brother, to death after an earlier fight. Similarly in *Sunday v. Uganda*

C.A Crim. Appeal No. 103 of 2006, the Court of Appeal upheld a sentence of life imprisonment for a 35 year old convict who was part of a mob which, armed with pangas, spears and sticks, attacked a defenceless elderly woman until they killed her. In *Byaruhanga v. Uganda*, C.A Crim. Appeal No. 144 of 2007, where in its judgment of 18<sup>th</sup> December 2014, the Court of Appeal  
5 considered a sentence of 20 years' imprisonment reformatory for a 29 year old convict who drowned his seven months old baby. The convict had failed to live up to his responsibility as a father to the deceased who was victimized for the broken relationship between him and the mother of the deceased.

10 From the facts of this case, A1 Ambayo Charles bears the highest degree of blameworthiness for having used a deadly weapon, in a manner reflective of wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and total disregard of the sanctity of life, His conduct towards the deceased manifested such a frame of mind. In light of the aggravating factors outlined by the learned Resident State Attorney, I consider a starting point of forty years'  
15 imprisonment for his level of blameworthiness.

Against this, I have considered the fact that the convict 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*  
20 *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  
25 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 A1 Ambayo Charles pleaded guilty, as one of the factors mitigating his sentence but because it came on a day fixed for hearing, after some evidence had been recorded and not at the earliest opportunity, I will not grant the convict the traditional discount of one third (thirteen years) but  
30 only a fifth (eight years), hence reduce it to thirty two years.

I have further considered the submissions made in mitigation of sentence and in his *allocutus* and thereby reduce the sentence to twenty eight years' imprisonment. 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 he has been in custody since 16<sup>th</sup> November, 2016. I hereby take into account and set off a period of one year and three months as the period he has already spent on remand. I therefore sentence A1 Ambayo Charles to a term of imprisonment of twenty six (26) years and nine (9) months, to be served starting today.

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I consider the participation of A2 Abiriga Charles, in the commission of the offence to have been more at the accessory rather than the direct perpetration level. In light of the aggravating factors outlined by the learned State Attorney, I consider a starting point of twenty years' imprisonment for his level of blameworthiness. Against this, I have considered the submissions made in mitigation of sentence and in his *allocutus* and thereby reduce the sentence to seventeen years' imprisonment. 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 he has been in custody since 17<sup>th</sup> January, 2017. I hereby take into account and set off a period of one year and one month as the period he has already spent on remand. I therefore sentence A2 Abiriga Charles to a term of imprisonment of fifteen (15) years and eleven (11) months, to be served starting today.

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A2 Abiriga Charles is advised that he has a right of appeal against both conviction and sentence within a period of fourteen days. On the other hand, A1 Ambayo Charles having been convicted on his own plea of guilty, is advised that he has a right of appeal against the severity and legality of the sentence, within a period of fourteen days.

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Dated at Adjumani this 27<sup>th</sup> day of February, 2018.

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Stephen Mubiru  
Judge.  
27<sup>th</sup> February, 2018.