

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

INTERNATIONAL CRIMES DIVISION

CRIMINAL SESSION CASE No. 0001 OF 2010

(Arising from Nakawa Chief Magistrate’s Court Crim. Case No. 574 of 2010)

UGANDA PROSECUTOR

VERSUS

- 1. **HUSSEIN HASSAN AGADE** }{
- 2. **IDRIS MAGONDU** }{
- 3. **ISSA AHMED LUYIMA** }{
- 4. **HASSAN HARUNA LUYIMA** }{
- 5. **ABUBAKARI BATEMETYO** }{
- 6. **YAHYA SULEIMAN MBUTHIA** }{
- 7. **HABIB SULEIMAN NJOROGI** }{

ACCUSED

- 8. **OMAR AWADH OMAR** }{
- 9. **MOHAMED HAMID SULEIMAN** }{
- 10. **SELEMANI HIJAR NYAMANDONDO** }{
- 11. **MOHAMED ALI MOHAMED** }{
- 12. **DR. ISMAIL KALULE** }{
- 13. **MUZAFAR LUYIMA** }{

BEFORE:- THE HON MR. JUSTICE ALFONSE CHIGAMOY OWINY – DOLLO

SENTENCE

After a protracted trial, I found **Hussein Hassan Agade (A1)**, **Idris Magondu (A2)**, **Issa Ahmed Luyima (A3)**, **Hassan Haruna Luyima (A4)**, **Habib Suleiman Njoroge (A7)**, **Selemani Hijar Nyamandondo (A10)**, and **Mohamed Ali Mohamed (A11)**, each guilty under various counts, of committing the offences of terrorism, and murder, where over seventy persons lost their lives; and attempted murder, where numerous persons sustained grievous bodily injuries. I accordingly convicted them for each of the offences. I also found **Muzafar Luyima (A13)** guilty of two counts of the offence of being an accessory after the fact; and accordingly convicted him. The matter has now come up for sentence._

State Counsel Mr. Lino Anguzu urged Court to consider imposing the ultimate sentence for the offences of terrorism and murder for which the convicts are facing sentence. He submitted that society desires peace; hence, there is need for a sentence that would deter other members of society, by making them realise that terrorism and murder are risky undertakings, as the long arm of the law always catches up with whoever indulges in them. The reasons he gave for seeking the death penalty include the gravity of the offence of terrorism and murder; the motive behind the perpetration of the crime; the brutality of the weapon used, where here the explosives had maximum impact on the victims; the effect of the offence on the victims, their families, and the entire community at large.

He submitted that the commission of the crimes were premeditated with the result that lives were lost, numerous persons sustained severe injuries leading to maiming of some, and society itself is now living in a state of fear and unnecessary inconvenience as the State has to beef up security in all places; thus causing economic loss to the State. He pointed out that the motive for the criminal acts was both political and religious; and unless a severe sentence is imposed, society will continue to be at risk from these misguided radicals. As for **Muzafar Luyima (A13)**, Counsel conceded that he has already been a remand prisoner for a period close to six years; and yet on conviction, the maximum sentence that Court could impose is three years. He thus urged Court to take this into consideration.

Defence Counsel Caleb Alaka focused his submission on the aspect of the fact that none of the convicts is really the originator of the evil design that concluded with the twin bombings; but were all brainwashed by religious fanaticism to commit the crimes for which they were found

guilty and have been convicted. He therefore pleaded with the Court to treat the convicts with leniency as victims of manipulation themselves. He vehemently countered the submission for the ultimate punishment; and pointed out that all the convicts are in their thirties. He thus submitted that they can still reform and be of much better use to society if they are given the chance to do so.

I have to point out the indignation with which society views acts of terrorism in whatever form it takes. Terrorism, especially the one that is indiscriminately perpetrated, by targeting innocent and non-combatant members of society (the soft underbelly of society) is most repugnant; and cannot be justified by whatever cause, however seemingly compelling it may be. The hundreds of victims of these wanton acts had nothing to do with the decision to deploy the UPDF in Somalia. I daresay it is quite probable that amongst the victims of the bomb blasts were those who were irreconcilably opposed to the deployment; and yet because of these senseless and indiscriminate attacks they are either dead, or permanently living with the scars of these blameworthy deeds.

The grave crimes of terrorism, and murder, ruthlessly committed in the Kyadondo Rugby grounds and the Ethiopian Village Restaurant, must correspondingly attract severe punishments. I however do not believe that the death sentence would really assuage the victims and give closure to the indelible pain that society has suffered, on account of the terrorist and murderous acts. In the event, with regard to each of the counts in the offences of terrorism, murder, and attempted murder, **Hussein Hassan Agade (A1)**, **Idris Magondu (A2)**, **Issa Ahmed Luyima (A3)**, **Habib Suleiman Njoroge (A7)**, and **Mohamed Ali Mohamed (A11)**, are each sentenced to life imprisonment. They will each spend the remainder of their lives in prison. In doing so, I have taken into consideration the centrality of their individual participation in these three crimes.

Hassan Haruna Luyima (A4), and **Selemani Hajar Nyamandondo (A10)**, shall each spend 50 years in jail for each of the counts in the offences of terrorism, murder, and attempted murder for which they have been convicted. The sentences imposed on each of the convicts shall run concurrently. **Muzafar Luyima (A13)** has been in prison, on remand, for close to six years. The maximum sentence for the offence of being an accessory after the fact is three years. In the circumstances I find that it does not serve the interest of justice to keep him in jail any further. Accordingly, I sentence him to community service within his area of Namasuba; in which he will serve four hours every two days of the week, for one year.

This shall be at the supervision of the LC officials of his village, and the police. Accordingly then, the Registrar Criminal Division of the High Court shall within fourteen days of this order

summon the LC Chairperson of Para Zone Namasuba, and the DPC for the Police station in charge of the area, to serve them with this order; and on which day **Muzafar Luyima (A13)** shall be released to them. Otherwise, he shall return to prison until then.

A handwritten signature in black ink, appearing to read 'Alfonse Chigamoy Owiny', with a large, sweeping flourish at the end.

Alfonse Chigamoy Owiny – Dollo

JUDGE

27 – 05 – 2016