

**THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT MBARARA**

CRIMINAL APPEAL NO.96 OF 2006

5

BWAMBALE MUCUNGUZI.....APPELLANT

V E R S U S

10

UGANDARESPONDENT

**CORAM: HON. JUSTICE A. TWINOMUJUNI, JA
HON. JUSTICE S.B.K. KAVUMA, JA
HON. JUSTICE M.S.. ARACH AMOKO, JA**

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Mr. Vincent Okwanga Senior Principal State Attorney for the respondent.

20 Ms Matovu Suwayah for the appellant on State brief

Ms Suwayah:

I will take 10 minutes. This is an appeal from conviction and sentence in Fort Portal for defilement. Appellant was convicted and sentenced to 16 years in prison. I will only appeal against sentence.

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Ms Suwayah:

I apply for leave to appeal against sentence only.

Court:

30 _Leave granted.

Ms Suwayah:

5 Sixteen (16) years on the appellant was too harsh and excessive. You can interfere with sentence if it is too harsh. The appellant was aged 18 years at the time of the offence and the victim was four years. This age is characterised by adventuring. The appellant is a first offender. He pleaded guilty and was on remand for one and a half years. He deserved a lenient sentence. Pray you reduce the sentence to two years especially because he was too young himself.

10 Mr. Vincent Okwanga:

I support the sentence. The maximum sentence was death. He was only given 16 years. Though he is a young man of 18 years, he should not have been venturing by molesting a child of four. The sentence was not too harsh. The trial judge gave reasons. The offences against children are 15 too rampant. The trial judge considered all possible mitigation factors. We do not ask for enhancement and pray you uphold the sentence as was imposed.

Ms Matovu Suwayah:

20 Nothing to add.

R U L I N G:

We have listened to Ms. Matovu Suwayah counsel for the appellant. We have also heard from Mr. Vincent Okwanga for the State. Defilement is a very serious offence. This type carried a 25 sentence of death at the time it was committed. It is true that the appellant was a young man of 18 years but we cannot accept that by that age, he had any justification whatsoever to venture into assaulting female children of any age. To hold so would be to give a licence to adolescents to assault the children with impunity. We think the trial judge considered all possible mitigating circumstances and arrived at a correct sentence. We see no justification to disturb it. We uphold 30 the sentence of 16 years. The appeal is accordingly dismissed.

Dated at Mbarara this 8th day of November 2010.

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Hon. Justice A. Twinomujuni

5 **JUSTICE OF APPEAL**

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Hon. Justice S.B.K. Kavuma

10 **JUSTICE OF APPEAL.**

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15 Hon. Justice M.S. Arach Amoko

JUSITCE OF APPEAL.