

UGANDA / JUDGMENT

Modo v Uganda (Criminal Appeal 740 of 2014) [2024] UGCA 282 (4 October 2024)

[2024] UGCA 282

COURT

Court of Appeal of Uganda

BEFORE

Egonda-Ntende, JA, Cheborion-Barishaki, JA, Asa Mugenyi, JA/JCC

CASE / FILE NUMBER

Criminal Appeal 740 of 2014

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

THE REPUBLIC OF UGANDA THE COURT OF APPEAL OF UGANDA AT KAMPALA
(Coram: Egonda-Ntende, JA, Cheborion-Barishaki, JA, Asa Mugenyi, JA)

CRIMINAL APPEAL NO. 0740 OF 2014

MODO s/o LOCHODE: APPELLANT

AND

UGANDA RESPONDENT

(Appeal against sentence only, arising from the decision of the High Court of Uganda at Kampala [Rugadya Atwoki, J] dated 18th July 2014, in Criminal Session Case No. 047 of 2006)

JUDGMENT OF THE COURT

Introduction

\,

- The appellant was charged with two counts of murder contrary to Sections 188 and 189 of the Penal Code Act Cap. 20. He was convicted and sentenced to suffer death. The Court of Appeal heard the matter, but the Supreme Court set aside the decision and ordered that the file be remitted to the High Court for resentencing after mitigation according to the decision in Attorney General Vs. Susan Kigula & 477, Constitutional App. No. 03 of 2006. The appellant was resentenced to life imprisonment, hence this appeal.

- 121 The facts admitted by the trial court are that on 17th October 2005, at about 09:00 pffi, the appellant and two others attacked the

home where the two deceased lived. They found the deceased watching a film \ rith others. The assailants demanded money and shortly after they shot Nalinga Jesca and her child, Ngorok Reginaldo. The assaiiants also shot Achongoli Thomas, a brotherin-law to Jesca, but he survived. The appellant and others were identified at the scene and from the identification parade. They were chargeci, convicted and sentenced.

The Appeal

- t3l Being dissatisfied, the aoellant appealed against the sentence based on two grounds;
- i. Thdt the learned trial Judge erred. in laut and fact uhen he passed an omnibus sentence, which is llegal" therebg occa.slonlng a ml.scarriage oJ' justice.
- ti. 'fhut the learrred 'trii;i,L Jtxlge erced. in laut and Jact uthen he 'Intitosec,l a manifeserg harsli and excessiue sentence of ltfe Ltrtltrtsortntent otu ttu appellant, thereby occa.slonlng 4 i,^n!.;car:iag e oj jt tsti : t.
- I4l The respondeitl concedecl. to grounG one of the appeal that the sentence passed by the learneci trial judge was omnibus and, therefore, illegal but opposed ground two of the appeal, noting that the sentence was neither harsh nor excessive.

Representation

At the hearing of the appeal, the appellant was represented by Mr. Mohammed Mbalile on State brief while the respondent was represented by Mr. Joseph Kyomuhendo, Chief State Attorney, from the Office of the Director of Public Prosecutions. The appellant appeared in Court through video link.

t5] With leave of Court, the appellant appealed against the sentence on1y, and the parties relied on their written submissions as legal a-rguments in support of their respective cases.

Submissions

Appellant's submissions

16l Girren the respondent's concession on ground one, that the sentence was illegal because it was omnibus, we find no reason to reproduce the submissions on this ground. Neither is it necessary to consioer ground 2, given the fact that ground 1 is conceded, which u'ould automaticaliy lead to the re sentencing of the appeliant by this court.

Analysis

- t7l As a iirst appellate court, we are alive to the duty of this Court to reappraise all the evidence at trial and come up with our inferences of law and fact as provided in Rule 30 of the Judicahrre (Court of appeal Rules; Directions S.l 13-10 and the decision in Kitannunte Henry u Uganda SCCA No. 70 of 7997).
- t8] Concerning sentencing, the case of Kamga Johnson a Uganda, SCCA No. 76 of 2000 has settied the position on the role of an appellate Court. The Supreme Court held: -

,It is uell settled tlthat the Court of Appeal urlll not interJere wtth tlte exercise of discretlon unless there ha,s been a failure to exercise dLscretion, or failure to take lnto account a material consideratlon, or an enor tn pdncple utqs made. It is not sufficient that the rmembers of the Court unuld haue exercised. thelr discretlon differentlg. "

\$[9]\$ The appellant was convicted of 2 counts of the offence of murder. The sentence did not specify which count it was in respect of. It was omnibus. This rendered it illegal. Under section 11 of the Judicature Act, we exercise our powers to resentence the appellant. We find a sentence of 23 years' imprisonment on counts 1 and count 2, respectively, appropriate. The period of 4 years which the appellant spent on remand is deducted from each sentence. The appellant shall serve 19 years, on each count, from, 10th September 2008, the date of conviction. The sentences shall run concurrently.

Disposition

The appeal against the sentence is allowed in the terms set above.

We so order.

Dated and delivered at the Court of Appeal, Kampala, on the day of .. O. V. ... 2024.

ck Egonda-Nt

istice of Appeal

neborion Barishaki **Justice of Appeal**

Dr. Asa Mugenyi

Justice of Appeal

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ulii.org/akn/ug/judgment/ugca/2024/282/eng@2024-10-04>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/modo-v-uganda-criminal-appeal-740-of-2014-2024-ugca-282-4-october-2024-unknown-topic-unknown-court-2024--6a3ea4dc3b1caa91297e92fe>

Prepared on 14 October 2026 · Esheria