

THE REPUBLIC OF UGANDA  
IN THE COURT OF APPEAL OF UGANDA AT FORT- PORTAL  
CRIMINAL APPEAL NO.585 OF 2015

[Coram: Buteera, DCJ; Mulyagonja & Luswata, JJA]

5 BALUKU DAVID :: APPELLANT

VERSUS

UGANDA :: RESPONDENT

10 (*Appeal against the conviction and sentence of the High Court of Uganda  
at Fort Portal, Batema N.D.A, J, dated 15<sup>th</sup> August 2014, in Criminal  
Session Case No. 0095 of 2009*)

JUDGEMENT OF THE COURT

15 **Introduction**

The appellant was convicted of murder contrary to Sections 188 and 189 of the Penal Code Act, Cap 120, and sentenced to 35 years' imprisonment.

**Brief Facts**

20 The facts according to the prosecution case were that on the 6<sup>th</sup> day of August 2009, while at Kasenyi landing site on Lake George in Kasese District, the appellant murdered Bwambale Joseph. That according to the evidence of the doctor who examined the body of the deceased, the deceased was hit by a heavy blunt object on the forehead causing a depressed skull fracture. According to the postmortem report, the  
25 deceased died of severe cerebral concussion arising from the head injuries.

  
  


In his defense, the appellant contested those facts stating instead that the deceased drowned following a hippopotamus hitting the boat in which they were. That he was able to swim and get hold of the boat, while the deceased failed to make it. The appellant was tried and convicted of murder and sentenced to 35 years' imprisonment. Dissatisfied with that decision, he filed this Appeal.

### **Grounds of Appeal**

1. That the trial judge erred in law and fact when, in his conviction of the appellant for the offence of murder, he did not cite the law upon which he based his conviction.
2. That the trial Judge erred in law and fact when he convicted the appellant for the offence of murder on uncorroborated circumstantial evidence, thus occasioning a miscarriage of justice.
3. The trial judge erred in law and fact when he passed an illegal sentence of 35 years' imprisonment against the appellant, whereby the law under which the appellant was convicted was not cited and the period spent on remand by the appellant was not considered, thereby occasioning gross miscarriage of justice.
4. The trial Judge erred in law and fact when he passed a manifestly harsh and excessive sentence of 35 years imprisonment against the appellant, thereby occasioning gross miscarriage of Justice.

### **Representation**

At the hearing of the Appeal, the appellant was represented by Ms Angella Bahenzire, on State brief. The respondent was represented by Mr. Sam

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