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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(CRIMINAL DIVISION)

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CRIMINAL CONFIRMATION CASE NO. 011 OF 2026

*(Arising from Chief Magistrate’s Court of Buganda Road
Holden at City Hall Court)*

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UGANDA:..... PROSECUTION

VERSUS

20 **MUCUNGUZI DAVID:..... ACCUSED**

RULING ON CONFIRMATION OF SENTENCE

BEFORE: HON. JUSTICE GADENYA PAUL WOLIMBWA

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Introduction:

This file was placed before me for confirmation of sentence under Section 173 of the Magistrates Courts Act. It is worth stating at the outset that the Magistrates Courts (Amendment) Act 2026 recently repealed Section 173. However, the repeal did not have retrospective effect. Sentences
30 imposed before the repeal remain subject to confirmation by the High Court, hence this decision.

Background:

Mucunguzi David, hereinafter referred to as the “accused,” was charged with:

- Kidnap with intent to confine, contrary to section 237 of the Penal Code Act.
- Stealing a motor vehicle, contrary to section 248 of the Penal Code Act.

35 The prosecution alleged that on 12th December 2025, at Ddungu, Kisozi Zone, Kawempe in Kampala District, the accused kidnapped Mpeirwe Tumwesigye Abraham, a ten-year-old son of Eng. Dr. Tumwesigye, with intent to secretly and wrongfully confine him. It is further alleged that the accused stole a motorcycle valued at Uganda Shillings Four Million (UGX 4,000,000/=), the

property of Eng. Dr. Tumwesigye. Fortunately, the police were able to rescue the young boy after
40 an ordeal that lasted seven days.

The accused pleaded guilty. The Trial Magistrate sentenced him to 8 years' imprisonment on
Count 1 and 2 years' imprisonment on Count 2, to be served consecutively.

Purpose of Confirmation of Sentence:

Section 173(1) of the Magistrates Courts Act provides that where any sentence to which the section
45 applies is imposed by a magistrate's court other than one presided over by a chief magistrate; the
sentence shall be subject to confirmation by the High Court. Section 173(2) specifies that the
section applies to, among other things, a sentence of imprisonment of two years and above.

**In Uganda v Oloya (Criminal Confirmation No. 1 of 2014) [2014] UGHCCRD 71 (24 October
2014)**, the High Court held that in confirming sentence, it examines the propriety of the
50 proceedings that led to the sentence and considers whether the sentence imposed is appropriate.
The Court further held that in doing so, it is guided by the procedure in revision under section 50
of the Criminal Procedure Act. This section says that the High Court may alter or reverse an order
or enhance a sentence where it appears that an error material to the merits of any case or involving
a miscarriage of justice has occurred.

55 The purpose of confirmation was further elaborated in **Turyatunga v Uganda (Criminal Appeal
No. 16 of 2016) [2017] UGHCCD 130 (22 September 2017)**. Here, the Court held that the
requirement for confirmation was intended to ensure compliance with the judicial process by the
trial magistrate, being an equivalent to the revision jurisdiction set out in section 50 of the Criminal
Procedure Act.

60 Additionally, in **Uganda v Amunyo (HCT-00-CR-34 of 2023) [2023] UGHCCRD 114 (6
September 2023)**, the High Court affirmed that sentences of two years' imprisonment and above
imposed by Magistrates of Grade I and II require confirmation, and that confirmation is concerned
with the lawfulness both of the conviction and of the sentence.

In summary, confirmation of sentence under section 173(1) of the Magistrates Courts Acts serves
65 the twin purposes of ensuring the propriety of the proceedings that led to the sentence, and
verifying whether the sentence imposed was in accordance with the law.

Consideration

Propriety of the proceedings

70 After reviewing the record, I am satisfied that the accused was properly convicted of Kidnap with Intent to Confine contrary to section 237 of the Penal Code Act and Stealing a Motor Vehicle contrary to section 248 of the Penal Code Act. The proceedings neither disclose an error material to the merits of the case nor an injustice.

Legality of the Sentence

75 In evaluating the propriety of the sentence, I have been guided by the Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013 (the “Guidelines”). The Guidelines do not prescribe a specific sentencing range for kidnap or for stealing a vehicle. However, they provide general sentencing principles and factors that apply to all offences. Paragraph 6 of the Guidelines directs every court, when sentencing, to take into account, among
80 other things: the gravity of the offence including the degree of culpability; the nature of the offence; consistency with appropriate sentencing levels for similar offences committed in similar circumstances; the effect of the offence on the victim or the community; the offender’s personal and family background; any previous convictions; and any other circumstances the court considers relevant.

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Paragraph 9 of the Guidelines further directs the court, before imposing a custodial sentence, to consider the character and antecedents of the offender; the circumstances and nature of the crime committed; the ruthlessness with which the offender committed the offence; the age of the offender; remorsefulness or conduct of the offender; and whether the offender may be a danger to
90 the community.

The purposes of sentencing under paragraph 5 of the Guidelines include denouncing unlawful conduct; deterring a person from committing an offence; separating an offender from society where necessary; and providing reparation for harm done to a victim or to the community.

Aggravating Factors

95 In evaluating the Trial Magistrate’s sentence, I have considered the following aggravating factors:

The accused carefully planned and meticulously executed the abduction of a ten-year-old boy. The premeditated nature of the offence is a significant aggravating factor under paragraph 6(a) of the Guidelines.

100 The victim was a child of tender age and was thus a vulnerable person. Targeting a vulnerable victim is an aggravating consideration recognized across the Guidelines.

The accused confined the victim in deplorable conditions in a swampy area for seven days and traumatized him.

105 The accused demanded and received a ransom of Uganda Shillings Five Hundred Thousand (UGX 500,000/=) and yet still refused to release the child. This conduct demonstrates a callous disregard for the victim's wellbeing and for the family is suffering.

The accused committed the offence in serious breach of the trust reposed in him as an employee and shamba boy of the victim's family. Abuse of a position of trust is an aggravating factor under paragraph 20(n) of the Guidelines.

110 The accused is a repeat offender. Previous convictions are an aggravating consideration under paragraph 6(h) of the Guidelines.

The impact of the offence on the victim's family and the wider community was severe. The community impact of such crimes is an aggravating factor under paragraphs 6(d) and 31(u) of the Guidelines.

115 Kidnap and ransom offences are rampant. Their prevalence is an aggravating factor under paragraph 31(o) of the Guidelines, by analogy.

Mitigating Factors

The following mitigating factors were considered:

120 The accused pleaded guilty, thereby saving court time and sparing the victim's family the ordeal of a trial. A plea of guilty is a recognised mitigating factor under paragraphs 21(e) and (k) of the Guidelines.

The accused is of youthful age, being 24 years old at the time of sentencing. Youthful age is a mitigating factor under paragraph 21(l) of the Guidelines. "Youthful age" is defined under paragraph 4 of the Guidelines as the age between 18 and 35 years.

125 **Assessment of the Sentence**

The aggravating factors in this case were weighty. The accused deliberately targeted a vulnerable child. He kept him in confinement in very deplorable conditions; he extracted a ransom from the child's parents and never honored his obligations; he breached the employers trust and harmed the community at large. Besides, he was a repeat offender. Against this, the mitigating factors — a
130 guilty plea and youthful age — while genuine, are limited in number and modest in weight.

Having weighed these considerations in accordance with the Guidelines, I am satisfied that the Trial Magistrate arrived at a well-reasoned and appropriate sentence. The mitigating factors do not come close to displacing the gravity of the aggravating circumstances. A sentence of 8 years' imprisonment on Count 1 is both proportionate and consistent with the deterrent and denunciatory
135 purposes of sentencing under paragraph 5 of the Guidelines.

As regards Count 2, the accused stole a motorcycle that has never been recovered. A sentence of 2 years' imprisonment is appropriate and proportionate.

Regarding the principle of totality of sentence, paragraph 8 of the Guidelines directs that where consecutive sentences are imposed, the total cumulative sentence shall be proportionate to the
140 culpability of the offender. The offences are distinct in nature and arise from separate acts. Therefore, I agree with the Trial Magistrate that the sentences should be served consecutively. The total of 10 years' imprisonment is proportionate to the overall culpability of the accused.

Decision

The sentences and orders proposed by the Trial Magistrate are confirmed. It is so ordered.

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Gadenya Paul Wolimbwa

JUDGE

19th June 2026