



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Orina (Criminal Case E015 of 2021)  
[2023] KEHC 2518 (KLR) (28 March 2023) (Sentence)**

Neutral citation: [2023] KEHC 2518 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL CASE E015 OF 2021**

**WA OKWANY, J**

**MARCH 28, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ROBERT KAMANDA ORINA ..... ACCUSED**

**SENTENCE**

1. On March 2, 2023, this court found the accused person herein, Robert Kamanda Orina, guilty of the offence of Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The prosecution indicated that they have no previous criminal record on the accused and submitted that he may be treated as a first offender.
3. In mitigation, Mr Bwonwong'a for the accused reiterated that the accused is a first offender and the sole bread winner of his family comprising of 4 young school-going children. Counsel submitted that the accused is remorseful for the offence and undertakes to be a law-abiding citizen.
4. Counsel further submitted that the accused, who was the guardian of the deceased, regrets the unfortunate circumstances under which the deceased met his death. He urged the court to consider recommendations made in the Probation Officer's pre-sentencing report to the effect that the accused could benefit from a non-custodial sentence.
5. I have considered the submissions by Counsel on sentencing and perused the Probation Officer's report dated March 14, 2023. The report reveals that the accused is 45 years old, was married but separated from his wife with whom he had four school-going children aged between 17 years and 7 years. The report further states that the accused is the sole bread-winner for his family who will be devastated should he be given a custodial sentence. The Probation Officer indicates that the accused and the deceased are members of the same family and that they enjoyed a cordial relationship. He further indicates that the family is of the view that the accused could benefit from a non-custodial sentence.



6. I have carefully considered the mitigation presented by the accused and the Probation Officer's pre-sentencing report. I have also considered the circumstances under which the offence was committed and the violent manner in which the deceased met his death. The evidence presented at the trial however indicates that the accused regretted his actions immediately as he is reported to have rushed the deceased to hospital for treatment even though the deceased was declared dead on arrival.
7. The violent attack on the deceased was barbaric and inexcusable.
8. The accused prayed for a non-custodial sentence which prayer is supported by the Probation Officer's report. I am cognizant of the Judiciary Sentencing Policy Guidelines and the Objectives of Sentencing.
9. The offence of Murder attracts punishment of up to a death sentence but the court has discretion, depending on the circumstances under which the offence was committed, to impose a lesser sentence. In the instant case, I find that a custodial sentence will be appropriate.
10. I therefore exercise discretion and sentence the accused person, Robert Kamanda Orina, to serve six (6) years imprisonment for the offence of Murder, to be calculated, taking into account the days he may have spent in remand custody.
11. Upon completing the prison term, the accused shall serve Probation for a period of one (1) year to be counseled on Anger Management.
12. It is so ordered. File closed.

**SENTENCE DATED, SIGNED AND DELIVERED AT NYAMIRA VIA MICROSOFT TEAMS ON THIS 28<sup>TH</sup> DAY OF MARCH 2023.**

**W. A. OKWANY**

**JUDGE**

