



State v Owuor (Criminal Case 14 of 2020) [2022] KEHC 12864 (KLR) (28 June 2022) (Sentence)

Neutral citation: [2022] KEHC 12864 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE 14 OF 2020
RE ABURILI, J
JUNE 28, 2022**

BETWEEN

STATE PROSECUTION

AND

BERNRARD OMONDI OWUOR ACCUSED

SENTENCE

1. On 21/6/2022, this court delivered judgment in this case where it found the accused person herein Bernard Omondi Owuor guilty of the offence of murder contrary to section 203 of the [Penal Code](#) and convicted him accordingly.
2. The prosecution through Ms Nambisia indicated to court that the prosecution had no previous criminal records on the accused person who may be treated as a first offender. The matter was then reserved for mitigation and sentence for today as the defence counsel was indisposed.
3. Through his counsel, Mr Ooro E holding brief for Ms Akinyi advocate, the accused person has mitigated saying that he is remorseful, he is the caregiver to his aged mother, he prays for leniency and forgiveness by the court and thanks this court for hearing his case on each occasion and expeditiously.
4. From the pre-bail assessment report dated October 27, 2022, the accused separated from his wife. He has no children. He is 40 years old and is HIV positive. He cared for his ailing mother who is old as he is the only son. He is said to be of good conduct for this offence. He worked as a casual labourer prior to the incident.
5. I have considered all the above mitigation and the circumstances under which the offence was committed leading to loss of an innocent young life of a child aged only 4 years old. The child had committed no wrong. She was defenseless and looked up to the accused person for protection. She came in the line of fire where the accused was having a fight with his wife. His anger boiled onto an innocent child. The circumstances under which the offence was committed border on gender based violence.



6. Deterrent sentence is necessary.
7. Punishment for murder upon conviction is death. However, this is not mandatory, following the decision in the *Francis Muruatetu & Another Vs Republic* [2017] eKLR case.
8. This does not mean that this court cannot impose a death penalty where appropriate. The court has considered the mitigation and remorse by the convict, his age and circumstances under which the offence was committed and the objects and purposes of punishment and sentencing and the health status of the accused person. I exercise discretion and sentence the accused person to serve fifteen (15) years imprisonment, taking into account the period already spent in custody, from his date of arrest on 6/9/2020.
9. Right of appeal to the Court of Appeal is guaranteed within 14 days from today to the Court of Appeal. Proceedings be typed forthwith.
10. I so order.
11. File closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 28TH DAY OF JUNE, 2022

R.E. ABURILI

JUDGE

