



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CRIMINAL CASE NO. 31 OF 2012**

**[FORMERLY NYERI HCCR 11 OF 2011]**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JULIUS WANDERI MWANGI.....ACCUSED**

**SENTENCE**

1. The accused was convicted for the offence of *murder*. This is a grave felony that attracts the sentence of death. However, following the landmark decision of the Supreme Court in *Francis Karioko Muruatetu & another v Republic*, Consolidated Petitions Nos. 15 & 16 of 2015 [2017] eKLR, the *mandatory* nature of the death sentence as provided for under Section 204 of the **Penal Code** was declared unconstitutional. This did not outlaw the death penalty, but it left the court with discretion to impose a lighter sentence.

2. I have considered the circumstances surrounding this offence. The accused and the deceased were good friends. However, an innocent life was wasted in a petty argument that ended in a fight. In the process, the accused inflicted a fatal stab wound to the left side of the deceased's chest. I have also taken into account the mitigation tendered by his counsel. The accused is a first offender and has a young family. He has expressed genuine remorse for his actions.

3. The rule of thumb is that sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by the *nature and gravity of crime*. Justice in this case calls for a custodial sentence. Doing the best that I can, I sentence the accused to ten (10) years imprisonment. The period served by the accused from the time he was first presented to Court on 10<sup>th</sup> March 2011 and remanded (but *excluding* any period when he was out on bail) shall be computed and deducted from this sentence.

4. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the judgment and sentence shall be supplied to him immediately.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT MURANG'A THIS 23<sup>RD</sup> DAY OF SEPTEMBER 2021.**

**KANYI KIMONDO**

**JUDGE**

**Sentence read in open court in the presence of-**

Accused.

Ms. A. Gakumu for the Republic.

No appearance by counsel for the accused.

Ms. Dorcas Waichuhi & Ms. Susan Waiganjo, Court Assistants.