



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NO. 133 OF 2014

REPUBLIC.....STATE

VERSUS

JAMES GITAU NJOROGE.....ACCUSED

SENTENCE RULING

1. The Accused Person, James Gitau Njoroge (“Accused Person”) was charged and convicted of the murder contrary to section 203 as read with Section 204 of the Penal Code. In a judgment dated 13/06/2019, the Court found that the Accused Person, with malice aforethought, killed Susan Wanjiru Mwaura (“Deceased”) at Rhonda Estate in Nakuru District within Nakuru County on the 28th day of December, 2014.

2. The circumstances in which the offence was committed are contained in the Judgment of the Court. In short, the Accused Person and the Deceased lived together as husband and wife. It was, by all accounts, a stormy union. Neighbours testified that the two often violently fought. On the fateful day the Deceased died, witnesses saw the Accused Person dragging the Deceased from a neighbour’s house while raining blows and kicks on her.

The following morning the Deceased was no more. The doctor concluded that the cause of death was traumatic brain injury caused by a blunt object. The body had multiple injuries mainly on the head and upper body regions.

3. In mitigation, the Accused Person’s Counsel, Mr. Orege, told the Court that the Accused Person was remorseful; that he regrets losing his wife and friend; that he blames his actions on alcohol abuse. Counsel submitted that the Accused Person has now been left to fend for the four children aged between 27 and 13 years old. Mr. Orege also told the Court that the Accused Person has serious health challenges in the form of stubborn Tuberculosis. The Accused Person begged for leniency in sentencing. Lastly, Mr. Orege told the Court to consider that the Accused Person has been in custody since 30/12/2014.

4. The DPP reported that the Accused Person is a first offender.

5. I have carefully considered all the factors in his case on an individualized basis as I am required to do. I have considered the following four mitigating factors.

6. *First*, the Accused Person the Accused Person is a first offender.

7. *Second*, the Accused Person expressed remorse. On the negative side, though, I considered that he had not taken any positive steps to ask for forgiveness from the family of the Deceased.

8. These mitigating factors must be balanced with aggravating circumstances to arrive at an appropriate sentence. The multiple injuries to the body of the Deceased is an aggravating circumstance.

9. After due consideration of these factors, I have come to the conclusion that a custodial sentence is merited as the only suitable way of expressing society’s condemnation of the Accused Person’s conduct or deter similar conduct in the future. I am of the view that a custodial sentence of fifteen (15) years is the appropriate sentence. I have, however, considered that the Accused Person has been in custody since

30/12/2014. His sentence will begin running from that day.

10. Consequently, I hereby sentence the Accused Person to imprisonment for a period of fifteen (15) years. The period of imprisonment shall be computed to begin on 30/12/2014.

11. Orders accordingly.

Dated and Delivered at Nakuru this 12th day of November, 2020.

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JOEL NGUGI

JUDGE