



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
Coram: F.A. Ochieng J
CRIMINAL CASE NO. 84 OF 2009

REPUBLIC.....PROSECUTOR

- VERSUS -

ELENAH NYAMBURA1ST ACCUSED

PERIS NJERI BUNDI.....2ND ACCUSED

GEOFFREY NJUGUNA.....3RD ACCUSED

KENNETH MURIITHI.....4TH ACCUSED

JUDGEMENT

1. The four accused persons, **ELENAH NYAMBURA; PERIS NJERI BUNDI; GEOFFREY NJUGUNA;** and **KENNETH MURIITHI** were charged with the offence of **MURDER** contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the offence were that on 2nd of August 2009, at the Civil Servants Estate in Kariobangi within **NAIROBI** province, the 4 accused persons jointly with another person who was not before the court, murdered **SHEILA WANJIKU**.
3. **PW1, TERESA MUGURE MUKIRI**, testified that she used to work as a “house girl” at the residence of **EUNICE NYAWIRA** and **PETER KAMAU** who were the parents of the deceased.
4. On the material day, PW1 opened the door after it had been knocked. She found **PERIS NJERI BUNDI (the second accused)** at the door. Peris asked her if the house at which PW1 worked was where Mama Sharon lived.
5. PW1 answered in the affirmative, but also informed Peris that Mama Sharon was not at home.
6. Peris told PW1 that she would phone Mama Sharon, and PW1 saw Peris reach out for her phone, presumably to phone Mama Sharon. At that point, PW1 returned to her work, which entailed feeding Sheila.
7. But the baby wanted to eat avocado. PW1 opened the main door, intending to go out to buy some avocado. At the door PW1 met 2 young men, who proceeded to enter the house.
8. One of the young men told PW1 that he was a brother to Sheila’s mother. As PW1 had not worked for Sheila’s mother for long, she did not know the brothers of her employer. Therefore, PW1 sought to know from the young man if Sheila’s mother was aware that the young men had visited her house.
9. The young man informed PW1 that Sheila’s mother was aware of their presence at her house, as

- the young men had passed by her office, where they told her that they would be proceeding to the house.
10. The young men asked PW1 to make some tea for them. They sat down on the seats, to await the tea. Meanwhile, they told PW1 that Sheila's mother would soon be coming back home.
 11. When 10 minutes lapsed before the arrival of Sheila's mother, PW1 inquired from the young men the reason for the delay, considering that they had said that Mama Sheila was following them when they arrived at the house.
 12. PW1 decided to phone Sheila's mother, but the young men offered to reach her instead. One of the young men used his phone to make a phone-call. The call was put on the speaker, and PW1 heard the voice of a lady, confirming that she had already arrived and that she was at the parking lot.
 13. It was the evidence of PW1 that she was not sure about the identity of the person whose voice she heard. Nonetheless, they continued to wait for Sheila's mother.
 14. After a little while, one of the young men held PW1 by her neck, and then stabbed her on the forehead. PW1 fell down.
 15. After PW1 had fallen down, one young man held the baby, whilst the other young man stabbed the baby.
 16. PW1 was then stabbed on her neck, leading to her becoming unconscious.
 17. When PW1 eventually came to, she found the baby lying on the floor.
 18. The knife which was used to kill the baby was lying on the floor.
 19. PW1 was taken to the Kenyatta National Hospital, where she received treatment for her injuries.
 20. When PW1 was questioned by police officers, she confirmed that she would be able to identify all the 3 people who came to the house on the material day.
 21. Later, PW1 picked out Peris Njeri Bundi (*the 2nd accused*) and Kenneth Muriithi (*the 4th accused*) at separate Identification Parades.
 22. During cross-examination, PW1 said that she was able to identify Peris because she saw her clearly on the material day. PW1 had talked to Peris for 2 to 3 minutes.
 23. Meanwhile, as regards the 4th accused, PW1 said that he was seated inside the house, in her presence, for about 20 minutes.
 24. PW1 explained that although she was shocked when the assailants stabbed the baby, the shock was not so much as to make it difficult for her to identify the 2 young men who killed the baby.
 25. PW1 further explained that the family she was working for did not get visitors regularly during the month when she worked there. Therefore, when Peris and the 2 young men came visiting on the material day, it was not the normal thing.
 26. **PW2, PETER KAMAU KABATI**, was the father of the deceased.
 27. PW2 was the husband of **ELENAH NYAMBURA**, the 1st accused. He was also the husband of **EUNICE NYAWIRA NDUNGU (PW3)**.
 28. Although Elenah was his first wife, Peter testified that he no longer lived with her. He was living with Eunice.
 29. However, both ladies had continued to work at both the bakery and the supermarket which Peter had invested in.
 30. On the material day, Elenah was off-duty, whilst Eunice was on duty.
 31. At about 11.00 a.m Peter got a phone-call from a neighbour named Mama Rose, who asked him to rush back home as Mama Rose had heard noise at Peter's house. Mama Rose told Peter that all the doors to his house were wide open.
 32. When Peter reached home, he found Mugure (PW1) outside the house. She was being supported by some neighbours.
 33. Peter noted that the clothes worn by PW1 were soaked in blood.
 34. When Peter asked Mugure where the baby was, Mugure only told him to enter into the house.
 35. Peter entered his house, where he found the baby, dead. Next to the body, Peter noted a knife on the floor and blood was everywhere in the room.
 36. After finding that his daughter was dead, Peter phoned Eunice and gave her the bad news.
 37. According to Peter, the relationship between Eunice and Elenah was not good. However, the 2 ladies used to tolerate each other.
 38. During cross-examination, Peter said that Eunice and Elenah did not have a disagreement preceding the incident in which the baby was killed. Secondly, Peter did not disagree with Elenah.

39. When Ms. Odembo, the learned advocate for Elenah cross-examined Peter, he said that after Elenah was arrested she confessed to him that she had been involved in killing the baby. Elenah blamed the devil for persuading her to pay people to kill the baby.
40. And when Mr. Nzioka, the learned advocate for the 3rd accused cross-examined him, Peter said that Geoffrey Njuguna (*the 3rd accused*), used to visit their house. He added that the said 3rd accused had never had any disagreement with him.
41. During further cross-examination, PW2 explained that Elenah was not stressed although she was not consulted before Peter married Eunice.
42. Peter also added that he provided for the son of Elenah in the same way as he did for the daughter of Eunice. Indeed, the 2 children were both attending the same boarding school in Naivasha.
43. **PW3, EUNICE NYAWIRA NDUNGU**, was the mother of the deceased, Sheila. On the material day, Eunice left Sheila at home, in the company of Mugure (**PW1**). Eunice was working at the bakery on that day.
44. At about 11.00 a.m, Peter informed Eunice about the demise of Sheila. After getting the bad news, Eunice rushed home where she found Sheila lying on the floor, dead.
45. Later, Eunice identified the body of her baby at the Umash Funeral Home, where the post-mortem was conducted.
46. According to Eunice, she lived harmoniously with Elenah. Eunice testified that on most weekends, she used to stay with Samuel Kabati Kamau, who is a son of Elenah.
47. As far as Eunice was concerned, there was no enmity between her and Elenah. She emphasized that the 2 ladies had never fought.
48. Eunice testified that Peter used to take to school both her daughter and the son of Elenah. The two children were studying at Little Friends School, which is a boarding school based at Naivasha.
49. On the material day, Elenah was not at her place of work. She had informed Eunice that she was going to a salon. Therefore, just as the 2 of them used to do regularly, Eunice stood in for Elenah.
50. Eunice described Peris Njeri Bundi as her friend, who knew her house.
51. Eunice was not sure about the involvement of Peris in the murder of the baby. However, Eunice had learnt from her house-help, (*Mugure*), that Peris had visited the house on the material day.
52. **PW4, TRUPHOSA MBATI** was a resident of Civil Servants Estate, Kariobangi South. Her house was next to that of Peter and Eunice.
53. On the material day she noticed 2 young men who were standing between her house and the house of her neighbour. Truphosa noted those 2 young men because they had stood in that area for a long time.
54. As Truphosa continued to watch them, the young men walked towards the parking lot, where they met a lady. The lady joined the 2 young men and all the 3 of them left together.
55. A short while later, Truphosa heard the voice of a lady who was speaking to young men. However, Truphosa did not see the persons.
56. Upon hearing the door to her neighbour's house being opened, Truphosa thought that the father of Sheila had come home. But she was surprised when Sheila did not call out as she would normally do when the father got home. Ordinarily, Sheila called out either "*Daddy?* or "*Papa?*".
57. Truphosa became suspicious when the baby did not call out as usual. Her conclusion was that the house-help had brought a man-friend to the house.
58. A few minutes later, Truphosa heard the house-help cry out once, "*Ahh.....?*". Thereafter, there was silence.
59. Truphosa also heard commotion, as if furniture was either falling or was being moved about. At that point, the baby started crying. But the crying stopped after a short while.
60. Ten minutes later, Truphosa heard Mugure screaming. When Truphosa saw her, Mugure was wearing a T-shirt which was blood-stained.
61. It is at that point that Truphosa phoned Peter.
62. During her testimony, Truphosa identified Peris Njeri Bundi, as the lady whom she had seen talking to the 2 young men. Truphosa also identified Kenneth Muriithi as one of the young men who were talking to Peris at the parking lot.
63. Truphosa explained that she was able to identify those 2 because she looked at them for about 10 minutes.
64. **PW5, STEPHEN KINYANJUI WAINAINA**, worked as a taxi driver in Nairobi.
65. On 8th August 2009, his customer, Elenah Nyambura, phoned him and told him that she wanted to

- send him to Murang'a. Elenah asked Peter to first pass through the house of Njeri which was at the Civil Servants Estate in Kariobangi.
66. Stephen picked up Njeri from her house and took her to Nyambura's house. Stephen remained in the car when Njeri went into Nyambura's house.
 67. When Njeri came out, Stephen drove her to Murang'a. When they reached Kenol, Njeri went to talk to some people, whilst Stephen had a cup of tea.
 68. When Njeri had finished talking to the people at Kenol, she came back the car in the company of a young man.
 69. Stephen drove to Kilele, which is within Murang'a. At Kilele, Stephen left Njeri with the young man, when he went to use the washrooms.
 70. At that point, Mr. Kimanthi, the learned state counsel who was prosecuting the case, asked the court to declare Stephen a hostile witness.
 71. Mrs. Nyamongo, the learned advocate for Elenah, and Miss Odembo, the learned advocate for Peris Njeri, did not object to the prosecution's application.
 72. However, Mr. Kamere, the learned advocate for Geoffrey Njuguna, and Mr. Wamwayi, the learned advocate for Kenneth Muriithi, opposed the application.
 73. But Mr. Wamwayi then changed his mind.
 74. Ultimately, the court declared Stephen Kinyanjui Wainaina, a hostile witness.
 75. When Stephen later resumed his testimony, he said that the young man did tell Njeri that the young man whom she was looking for could only be available on another day. Thereafter, Stephen drove back to Nairobi. Njeri went with him, in the car.
 76. During the trip back to Nairobi, Njeri told Stephen that the money which she had when they drove to Murang'a, could have made her rich. She said that if Stephen had seen the money, he would have thought that she had gone to buy a plot of land.
 77. When being cross-examined by Mr. Kamere advocate, Peter said that whilst he was at Kenol, he had 2 bottles of beer. It is the said beer which constituted his breakfast.
 78. He drank the 2 bottles within 30 minutes, but although he described that as a fast pace of drinking, Stephen also said that it was only 7 bottles of beer that could make him feel "high?". He therefore said that he was not drunk after the 2 beers.
 79. **PW7, ZEPHANIA KAMAU** is a medical doctor. He conducted mental and physical assessment on each of the 4 accused persons.
 80. Dr. Kamau produced the P3 forms for the accused persons, and in the said reports, he indicated that each of the accused was mentally fit. Secondly, none of the accused had any physical injuries.
 81. **PW8, PC PETER OMOLO OWINO** was a police officer who was attached to the Scenes-of-Crime Section at the Nairobi Area Police Head Quarters.
 82. On 2nd August 2009 he took a total of 15 photos at the scene of crime. The photos showed the body of the baby lying on the floor in the sitting-room.
 83. **PW9, INSPECTOR GEORGE ANYONJE**, was the Officer-in-charge at the Mowlem Police Post, which was under the Buru Buru Police station.
 84. On 23rd September 2009 PW9 conducted an identification parade for **KENNEDY MURIITHI GIKENGE**, (*the 4th accused*).
 85. The suspect was identified by Teresa Mugure (PW1).
 86. During cross-examination by the 4th Accused, PW9 pointed out that the suspect expressed satisfaction with the parade, by saying "*Nimeridhika?*"; which can be translated to mean that he was satisfied.
 87. **PW10, INSPECTOR MICHAEL KIRWA MELI** was stationed at the Buru Buru Divisional Head-Quarters at the material time.
 88. On 17th September 2009 PW10 conducted the identification parade for Peris Njeri Bundi (*the 2nd accused*).
 89. It is Teresa Mugure who identified the suspect.
 90. After being identified, the suspect signed the Parade Form, and indicated that the parade had been conducted well.
 91. **PW11, PC THOMAS SIMIYU**, was a police officer who was attached to the Dandora Police post at the material time.

92. On 2nd August 2009, **PW11** visited the scene of crime, in the company of Chief Inspector Ogero and PC Osiri. They went to the scene after being notified about the murder of the baby.
93. The police officer identified the clothing which the baby was wearing on that day. He also identified the knife which was recovered from the scene.
94. **PW11** testified that on 3rd August 2009 he was at the Dandora police post when the parents of the baby and the house-help arrived.
95. After the house-help (*Mugure*) had recounted the attack on her and on the baby, she told the police that she could identify the 2 boys who had attacked them.
96. On 5th August 2009, **PW11** attended the post-mortem examination on the body of the deceased. He said that the body had 10 stab wounds on the neck.
97. After the post-mortem, **PW11** recovered the clothing which the baby had been wearing when she was stabbed. He took the clothing together with a sample of the baby's blood to the Government Chemist, for analysis.
98. **PW12, KARISA MWARINGA**, was a police officer who was the Deputy **OCPD** at Buru Buru police station, in September 2009.
99. He testified that Kenneth Muriithi Gikenge made a confession to him on 24th September 2009.
100. Mr. Wamwayi advocate raised an objection to the production of the alleged confession.
101. Following the said objection, the court conducted a trial-within-the-trial.
102. The court also conducted trials-within-the trial in respect to the other 3 accused persons.
103. Each of the 4 accused persons objected to the admission of their alleged confessions. They said that they had been coerced and threatened into signing statements which had been prepared in advance.
104. However, each of the police officers who recorded the statements in contention, went to great lengths to try and demonstrate that they each took all the requisite steps to comply with the recording of confessions.
105. The prosecution called a total of 5 witnesses during the trials-within-the trial.
106. Thereafter, each of the accused persons put forward their respective defences.
107. After giving the consideration to the evidence tendered, the court delivered its Ruling on 1st July 2014. It was the finding of the court that each and every one of the 4 statements made by the respective accused persons were confessions, which had been made in compliance with all the requisite legal safeguards which are intended to ensure that only those confessions which are truly and wholly voluntary, were admissible in evidence.
108. **PW13, DR. PETER MURIUKI NDEGWA**, conducted the post-mortem examination on the body of the deceased, Sheila Wanjiku Kamau.
109. The body had 6 stab wounds on the right side of the neck, and another 4 stab wounds on the left side of the neck.
110. All the stab wounds were penetrating, causing the blood vessels on the neck to be severed.
111. The doctor concluded that the cause of death was severe bleeding from the 10 stab wounds on the neck of the deceased.
112. **PW14, SERGEANT CATHERINE KINOTI**, was the Investigating Officer in this case.
113. Her investigations revealed that Elenah was a close friend of Peris Njeri. During the time in issue, there were intense communications between those 2 accused persons.
114. Sgt. Kinoti's first contact with Elenah and Peris was on 14th September 2009, which was 2 days after they were arrested.
115. According to Sgt. Kinoti, she handed over Elenah to Chief Inspector Ebby Mutali immediately after Elenah expressed a desire to make a confession.
116. Later, when Sgt, Kinoti read the confession, it revealed that Elenah was unhappy because her husband had married their former employee, Eunice. Therefore, Elenah confessed that she had made a decision to get rid of both Eunice and her daughter, Sheila.
117. Sgt Kinoti also testified that, as soon as Peris Bundi indicated a wish to make a confession, Sgt. Kinoti handed her over to Superintendent Samson Thoya.
118. The confession later revealed that Peris planned the murder, jointly with Elenah. Peris gave the names of the hired killers as Njuguna (*the 3rd accused*); Gikenge (*the 4th accused*) and Anderson.
119. Sgt Kinoti informed the court that the person named Anderson had never been arrested by the police.

120. According to the Investigation Officer (*the "I O?"*), it was Peris who coordinated the planning and execution of the baby because Elenah could not leave from her place of work.
121. The investigating officer testified that Elenah made available the sum of Kshs. 80,000/- to Peris, which Peris then paid over to the persons who killed the baby.
122. The investigating officer explained that it was Geoffrey Njuguna (the 3rd accused) who led the police to the home of Kenneth Muriithi Gikenge.
123. According to Njuguna's confession, it is he who searched for and identified Gikenge as the person suitable for the task of eliminating the baby.
124. When Njuguna led investigating officer and other police officers to the house where Gikenge lived, the police arrested Gikenge and they recovered a pair of grey trousers from the house.
125. When the trousers were analysed at the Government Chemist, it was established that the blood stains on the trousers matched the blood of Mugure, (*the house-help*).
126. During cross-examination, the I O said that she would be surprised to hear that Elenah and her co-wife, Eunice had a good relationship.
127. And the I O said that her investigations were greatly assisted by the communications which took place between Elenah and Peris. However, the particulars of the said communication were never made available to the court.
128. According to the investigating officer, the taxi driver (*Kinyanjui*) saw Peris when she paid money to the killers. Therefore, when it was pointed out to the investigating officer that Kinyanjui did not see any money changing hands, the investigating officer was surprised.
129. When questioned about the role played by Geoffrey, (the 3rd accused), the investigating officer said that he was the person who searched for and identified Gikenge and Anderson, as the persons who were to kill the baby.
130. After the investigating officer testified, the prosecution closed its case. Thereafter, the court put all the 4 accused persons on their defence.
131. Elenah Nyambura Njoroge gave a sworn defence. She confirmed that on the material day, she was not at work. It was her day of rest, so she had gone to a salon.
132. Whilst still at the salon, her husband phoned her.
133. As her hair was still being worked on, her husband went to the salon and informed her about the demise of baby Sheila.
134. According to Elenah, she and Eunice had a very good relationship.
135. Meanwhile, Elenah denied ever having known Peris Njeri prior to the murder of the baby. She said that she first met Peris at the police station.
136. Elenah denied either hiring or paying anybody to commit the offence.
137. During cross-examination, Elenah confirmed that she did not visit Eunice even after she learnt about the death of Eunice's daughter. Furthermore, Elenah did not attend the baby's burial.
138. When she was asked why she did not visit Eunice and also why she did not attend the burial, Elenah said that that was because she was running the business.
139. On her part, Peris Njeri Bundi also gave a sworn defence. She said that on 2nd August 2009, she did visit Eunice's house.
140. The reason for the said visit was that she had taken clothes to her customer, Eunice Nyawira.
141. When Peris knocked the door, it was opened by a girl who was not known to her. Peris asked the girl if "*Mama Sharon?*" was at home, but the girl answered in the negative.
142. At that point, Peris phoned Eunice, using her mobile phone. As Eunice was not anywhere near her house, Peris went to town.
143. On 4th August 2009 Peris phoned Eunice, and it is then that Eunice informed Peris about the death of Sheila, at the hands of unknown persons.
144. According to Peris, she was arrested after she had visited Eunice and had consoled her for about an hour.
145. On that same date, after being arrested, Peris was taken to Buru Buru Shopping Centre, where Ebby Mutali, Samson Thoya and Sgt. Kinoti were drinking alcohol. Those officers offered her some alcohol, and she drank two bottles of Guinness.
146. Peris also had some meat, together with the officers.
147. But thereafter, the officers are said to have coerced Peris to sign a confession.
148. It is noteworthy, as alluded to by the prosecution when State counsel Mr. Okeyo was cross-examining Peris, that Peris never questioned Eunice when Eunice had testified that Peris never

- went to console her.
149. The third accused, Geoffrey Njuguna, also gave a sworn defence. He emphasized that on 2nd August 2009, he did not travel to Nairobi, from his home in Kaharati, Murang'a.
150. Geoffrey confirmed the prosecution's version concerning the manner of his arrest.
151. However, he categorically denied being involved in the murder of baby Sheila. He said that he did not know the victim and also that he was never paid money for killing the baby.
152. On his part, the 4th accused person, Kennedy Muriithi Gikenge denied any involvement in the killing of the baby. He said that he lived in Murang'a and had not come to Nairobi until after he had been arrested by the police.
153. Kennedy said that Geoffrey Njuguna was a close neighbor, and that the 2 of them had no enmity at all. However, he did not know why Geoffrey could lead police officers to his house, where he (Kennedy) was arrested.
154. The foregoing constitutes a summary of all the evidence tendered in this case.
155. In determining the case I do remind myself that the onus of proving the case rested squarely upon the prosecution. The accused persons did not need to prove their innocence.
156. Secondly, the standard of proof required the prosecution to prove the case beyond any reasonable doubt. Therefore, if there was any reasonable doubt, the court would be obliged to acquit the accused person or persons, in respect to who any such doubt arose.
157. Dr. Peter Muriuki Ndegwa (**PW13**) conducted a post-mortem examination on the body of baby Sheila Wanjiku. There is no doubt that the baby passed away.
158. Secondly, there is no doubt at all that the baby died due to a severe loss of blood, after she had been stabbed 10 times. All the stab wounds were on the neck of the deceased.
159. Given the number of times that the little baby was stabbed on her neck, and the fact that the said stab wounds were penetrative, there can be no doubt that the person or persons who inflicted the injuries intended to either kill the baby or to cause grievous harm to her.
160. The important question that the prosecution set out to prove was the nexus between the accused persons and the murder of baby Sheila.
161. In this case there was an eye-witness, Teresa Mugure Mukiri. She was present when the baby was stabbed. In fact, Mugure was also stabbed.
162. Before being stabbed Mugure had been in the same room with the 2 young men, for about 10 minutes. Therefore, there was sufficient time and opportunity for Mugure to observe the young men.
163. The incident took place in broad daylight. Therefore, there was no hindrance to the ability of Mugure to identify the assailants.
164. On the very next day after the incident, Mugure told the police that she could identify the 2 assailants. And true to her word, Mugure later picked out Kenneth Muriithi Gikenge, from an identification parade.
165. It is not only Mugure who placed Gikenge at the scene of crime. Even Truphosa Mbatu (**PW4**) identified Gikenge at an identification parade. She had seen him on the material day, as Gikenge stood near her house, in the company of another young man.
166. Truphosa's attention had been drawn towards the 2 young men because they had stood for a long time, close to her house.
167. Therefore, although Gikenge denied having left Murang'a on the material day, I find that he was actually at the scene of the crime.
168. I also find that Gikenge was directly and actively involved in the stabbing of the baby.
169. Meanwhile, I also find that the 2nd Accused person, Eunice Njeri Bundi, was at the scene of crime on the material day.
170. That finding is based on the evidence of the 2 eye-witnesses, namely Mugure and Mbatu.
171. Secondly, the 2nd accused also confirmed, in her testimony, that she visited the house where the deceased lived.
172. Of course, the testimony of Peris was that the visit was a friendly one, as she had gone to take clothes to her customer, Eunice Nyawira Ndung'u.
173. Peris confirmed having talked to the house-help, Mugure, who informed her that Eunice was not at home. After learning that Eunice was out, Peris said that she phoned Eunice using her mobile phone. Thereafter, Peris said that she went away, to town.
174. At that point her evidence is at variance with the evidence of Truphosa Mbatu (**PW4**), who said

- that she saw Peris walking away with the young men who had been standing close to the house in which PW4 lived.
175. It is my finding that the 2 young men who Peris was walking with, after she had been at Eunice's house, were Kenneth Muriithi and Anderson.
176. Until the time the case herein came to a close, the police were yet to apprehend Anderson.
177. After Peris parted ways with the 2 young men, she may well have proceeded to town, in line with her own defence.
178. The evidence shows that very shortly after Peris parted ways with the 2 young men, the said young men entered into Eunice's house.
179. The evidence adduced did not show any reason why Peris or Muriithi Gikenge could have, without any prompting, collude to kill baby Sheila.
180. However, Elenah did, in her confession explain that she felt that her husband loved Sheila more than he loved Elenah's son. Secondly, Elenah explained that she was not happy about the fact that her husband had married Eunice.
181. Elenah said that she decided that if baby Sheila was killed, her husband would return to her.
182. Having shared the decision with her brother, Geoffrey, Njuguna, they roped in Peris, whose role was to point out the house in which Sheila lived.
183. Thereafter, Njuguna went to Murang'a where he recruited Gikenge and Anderson to go and kill the baby.
184. The details of that confession help us to understand the reason why Peris had gone to Eunice's house. She had not gone there to take clothes to Eunice. Her role was to point out the house to the hired killers.
185. And that is the reason why, after leaving Eunice's house, Peris talked to the 2 young men, who then proceeded to kill the baby.
186. In a nutshell, Elenah conceived the idea to eliminate baby Sheila. She then enlisted the help of her own brother, Geoffrey, whose role was to identify and recruit the killers. Meanwhile, Peris would point out the house to the killers.
187. The details set out in the respective confessions fit in very well with the eye-witness accounts presented by Mugure and Mbatia.
188. In arriving at this conclusion I have borne in mind the fact that each of the four accused persons had retracted their respective confessions. Therefore, it was vital that the court acted cautiously when dealing with the said retracted confessions.
189. I have taken into account the fact that the confessions were so detailed that it was only the persons who knew about what had transpired who could provide such information.
190. Considering that each of the accused persons were alone with different police officers, who recorded their respective confessionary statements, I find that it cannot be a matter of simple coincidence that the facts given by the respective accused persons fitted in very well with the facts provided by other accused persons.
191. I also find that the eye-witness accounts corroborated the confessions, thus further fortifying my finding that the confessions were re-statements of the facts about the incident which led to the death of baby Sheila.
192. All the 4 accused persons acted in concert, in the scheme of events.
193. Therefore, it would not matter at all that they did not each stab the deceased. Each of them played a role which contributed to the success of the heinous elimination of an innocent baby.
194. Accordingly, I find each and every one of the 4 accused persons guilty of the murder of Sheila Wanjiku. They are therefore, hereby convicted for the offence of murder.

DATED, SIGNED and DELIVERED at NAIROBI this 21st day of January 2016.

FRED A. OCHIENG

JUDGE

Judgement read in open court in the presence of

Okeyo for the Prosecution

Mrs. Nyamongo for the 1st Accused

Miss Odembo for the 2nd Accused

Mrs. Nyamongo for Kamere for the 3rd Accused

Wamwayi for the 4th Accused

Collins Odhiambo – Court clerk.