

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 71 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

PAUL KIMANI NJENGA.....ACCUSED

SENTENCE

Paul Njenga Kimani was convicted on 7th May 2015 for the murder of Peter Gitau Kiarie. This court found the case proved beyond reasonable doubt that on 4th September 2012 Paul Njenga Kimani doused the deceased with some inflammable liquid, struck a match stick and set the deceased ablaze. The deceased sustained 55% burns on his body. He died the following day as a result of those burns while undergoing treatment at Kenyatta National Hospital.

In mitigation before sentence, Mr. Anyango Ogutu, Advocate, told the court that the accused is a 62 years old widower with four children; that he suffers from an eye problem; that the deceased was his neighbour; that they did not have serious problems but in August 2012 they had an altercation after the deceased broke his spectacles but they had reconciled; that the accused is remorseful for what happened and that he seeks a lenient sentence.

I have considered mitigation by the accused. I have noted he is a widower aged 62 years. He has been convicted of murder. The deceased died as a result of a violent act perpetrated by the accused. It is heartless in my view to douse the deceased with inflammable liquid and set him ablaze. Violence does not solve problems no matter how serious they are. The penalty for murder is death as provided under section 204 of the Penal Code. This section is coached in mandatory terms as follows:

“Any person convicted of murder shall be sentenced to death.”

The penalty of death is sanctioned by law. Article 26 (3) of the Constitution states that **“A person shall not be deprived of life intentionally, except to the extent authorized by this Constitution or other written law.”** Deprivation of life is authorized by the Penal Code which is the **“other written law”**. With these provisions in mind, this court has no alternative but to sentence the accused to death as by law provided. He shall suffer death in the manner authorized by law. He has a right to appeal against the judgement and sentence within the specified period. It is so ordered.

Dated, signed and delivered this 25th day of May 2015

Stella N. Mutuku,

Judge

In the presence of:

Ms Florence Magoma for the State

Mr. Anyango Ogutu for the Accused

Paul Kimani Njenga, the accused

Daniel Ngumbi, the Court Clerk