



**Republic v Orwaru (Criminal Case 24 of 2020)
[2025] KEHC 3143 (KLR) (Crim) (4 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 3143 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE 24 OF 2020**

K KIMONDO, J

MARCH 4, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

PC BECKHAM OSORO ORWARU ACCUSED

SENTENCE

1. The accused was adjudged guilty of murder by the High Court on 13th December 2024. His records as well as a pre-sentencing report have now been presented to the court.
2. On 29th January 2025, I conducted a sentencing session and heard submissions from the learned prosecution counsel, Ms. Njoroge; learned counsel for the victim's family, Mr. Majimbo, and, learned counsel for the accused, Messrs Omenke and Nyakundi.
3. I have considered the circumstances surrounding this offence. The accused deliberately shot at the deceased from close range using a government issue Ceska Pistol. By firing the lethal weapon to the chest of the deceased, he knew or ought to have known that it was likely to cause death.
4. I have also taken into account the mitigation tendered by his learned counsel. Principally, they submitted that the accused is a first offender; that he is remorseful and has tendered an apology to the family of the victims through the investigating officer; that he is a police officer whose immediate and wider family looked up to for support; and, that he is a leader in the church and community.
5. In a synopsis, it was a plea for clemency to enable the accused to start a new chapter in life.
6. I have also paid heed to the pre-sentencing report under the hand of Salome Muthoni, Probation Officer, dated 29th January 2025. The report recommends a probation order or non-custodial sentence.



7. The Republic as well as learned counsel for the victim's family, Mr. Majimbo, on the other hand implored the court to take into account the grave nature of the offence and its impact on the family of the victim. In that regard, it was submitted that justice would only be served by a long custodial sentence.
8. The Victims Protection Act decrees that the views of the victim's family be considered at this stage. The deceased was the second (and last born) in his family. He was pursuing an accountancy course at KCA University. He was also working at Mugumo Company and supporting the family. The accused's unabated anger and violence thus led to loss of life and unnecessary anguish for the family of the deceased.
9. Murder is a grave felony that attracts the death penalty. However, following the momentous 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.
10. The sentence here must thus be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Considering all the circumstances of the offence and the age of the accused, I am not satisfied that a probation order or non-custodial sentence would be appropriate. The fact that the accused used a lethal weapon to shoot an unarmed man in the chest while making demands for money for violation of Covid-19 Regulations was reckless and remains an aggravating factor.
11. Justice in this case can only be served through a custodial sentence. I accordingly sentence the accused person to fifteen (15) years imprisonment. In accordance with section 333 (2) of the *Criminal Procedure Code*, any period spent in remand custody from the date of his arrest (but excluding such period when he was out on bail) shall be deducted from the sentence.
12. 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 proceedings, judgment and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED THIS 4TH DAY OF MARCH 2025.

KANYI KIMONDO

JUDGE

Sentence read in open court in the presence of: -

Accused.

Ms. Kigira for the Republic instructed by the office of the Director of Public prosecutions.

Mr. Omenke for the accused person instructed by Omenke Andenje & Company Advocates.

Mr. Majimbo watching brief for the family of the victim.

Mr. E. Ombuna, Court Assistant.

