



REPUBLIC OF KENYA



**KENYA LAW**  
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**Njeri v Republic (Miscellaneous Application 195 of 2019)  
[2025] KEHC 4286 (KLR) (Crim) (1 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4286 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
MISCELLANEOUS APPLICATION 195 OF 2019  
CJ KENDAGOR, J  
APRIL 1, 2025**

**BETWEEN**

**CHARLES NGIGE NJERI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being a re-sentencing Application arising from a death sentence  
in High Court Nairobi – Milimani Criminal Case No. 18 of 2008)*

**RULING**

1. The Applicant, was charged and convicted of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence were that on 30<sup>th</sup> January, 2008, at Makwa Village, Chania Location in Thika District, the accused murdered Josephine Wambui Wanyoro. Following the conviction, he was sentenced to death on 15<sup>th</sup> December, 2012.
2. On 19<sup>th</sup> July 2023, vide a gazette notice number 9566, the President, in the exercise of the powers conferred by Article 133 of the *Constitution of Kenya* and Section 23 (1) of the *Power of Mercy Act*, 2011, commuted the death sentence imposed on every capital offender as of 21<sup>st</sup> November, 2022 to a life imprisonment sentence.
3. Following the decision in *Francis Karioko Muruatetu & another v Republic* (2017) eKLR, a judgment delivered on 14<sup>th</sup> December, 2017, the Applicant seeks re-sentencing.
4. The Supreme Court directed that all offenders who had been subject to the mandatory death penalty in murder cases and desired to be heard on sentence were entitled to a re-sentencing hearing, remitting the matter to the High Court for sentencing.



5. The sentence proceedings in the present case indicate that the Applicant’s case is among those where a mandatory death sentence was imposed.
6. The Applicant lodged a notice of appeal at the Court of Appeal regarding the conviction and sentence imposed, and he withdrew the same via communication dated 30<sup>th</sup> June, 2022 which is duly acknowledged by the Deputy Registrar of the Court of Appeal on 8<sup>th</sup> July, 2022. Therefore, this Court has jurisdiction to hear and determine the present application.
7. The background of Criminal Case No. 18 of 2008 reveals that the Applicant was convicted and sentenced for being hired as a hitman by the deceased’s co-wife. The Applicant shot the deceased at her home during the night, injuring her in the leg and chest. She ultimately succumbed to her injuries in the hospital.
8. The trial Court was satisfied the prosecution proved that the accused had malice aforethought at the time he inflicted the injuries he did on the deceased.
9. In mitigation, the Applicant, through his advocate, expressed remorse and sought forgiveness from the deceased’s family. He stated that he was a first offender and the sole breadwinner for his family, which includes one wife and two children. Additionally, he mentioned that he is the youngest in a family of five and supports some of his siblings.
10. In the case of *Francis Karioko Muruatetu & Another v Republic*, Petition No. 15 of 2015, the Supreme Court stated that:
  - “(71) To avoid a lacuna, the following guidelines with regard to mitigating factors are applicable in a re-hearing sentence for the conviction of a murder charge:
    - a. age of the offender;
    - b. being a first offender;
    - c. whether the offender pleaded guilty;
    - d. character and record of the offender;
    - e. commission of the offence in response to gender-based violence;
    - f. remorsefulness of the offender;
    - g. the possibility of reform and social re-adaptation of the offender;
    - h. any other factor that the Court considers relevant.”
11. The Judiciary of Kenya *Sentencing Policy Guidelines* lists the objectives of sentencing at page 15, paragraph 4.1 as follows:
  - “Sentences are imposed to meet the following objectives:
    1. Retribution: To punish the offender for his/her criminal conduct in a just manner.
    2. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.



3. Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person.
  4. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.
  5. Community protection: To protect the community by incapacitating the offender.
  6. Denunciation: To communicate the community's condemnation of the criminal conduct."
13. I have examined the numerous factors pertinent to this case, including the mitigation arguments presented by the Applicant. However, I cannot overlook the particularly heinous manner in which the crime was executed. The trial Court underscored that the Applicant was not merely an impulsive actor but had assumed the role of a hitman, engaging in a premeditated plan to carry out this violent act. This pre-planning involved deliberate choice and intent, highlighting the gravity of the offence committed.
14. I have also reviewed other sentencing decisions regarding the offence of murder following the *Muruatetu decision*.
15. Bearing the above considerations in mind, I hereby re-sentence the Applicant to imprisonment for thirty-five (35) years, effective from the date of arrest on 25<sup>th</sup> February, 2008.
16. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 1<sup>ST</sup> DAY OF APRIL, 2025.**

**C. KENDAGOR**

**JUDGE**

In the presence of:-

Court Assistant: Beryl

Applicant present

Mr. Omondi, ODPP for Respondent

