



**Republic v Nyaribari (Criminal Case 56 of 2019)  
[2025] KEHC 5710 (KLR) (Crim) (7 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 5710 (KLR)

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

**CRIMINAL  
CRIMINAL CASE 56 OF 2019**

**LN MUTENDE, J**

**MAY 7, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DENNIS KEBIRO NYARIBARI ..... ACCUSED**

**SENTENCE**

1. Dennis Kebiro Nyaribari, the Accused, was pronounced guilty, convicted of the murder of Wycliff Onyango, following the incident which occurred on 10<sup>th</sup> August, 2019 at Fenesi Gardens Apartments, Westlands, Nairobi. The State filed a formal report issued by the criminal registry which established that the Accused is a first offender.
2. In mitigation through learned defence counsel, K.A. Nyachoti, it is submitted that the Accused who is aged 37 years is married with 2 children aged 11 and 3 years, respectively; a sole bread winner of his wife and mother, his father having died in 1999. That he is remorseful and will benefit from a non-custodial sentence. He called upon the court to consider the conduct of the Accused of taking the deceased to hospital in an attempt to save his life and even taking him to the police station. Appreciating that the family of the deceased was pained he called upon the court to sympathize with the young family of the Accused.
3. The learned prosecution counsel, Ms. Ogwen, urged the court to consider imposing a custodial sentence. That the Accused acted in a callous manner, he was brutal and insensitive to the plight of the deceased. That the Accused took matters into his hands hence justice should not be tampered with mercy. That the deceased took the body of the deceased to hospital intending to dump it but were re-directed to the police station. That the deceased family were pained. Counsel called upon the court to sentence the Accused to 20 years imprisonment to which the defence stated that the discretion of sentencing remains with the court.



4. A pre-sentence report was filed to guide the court following social inquiry carried out. The Accused is stated to be penitent and remorseful for the role that he played that resulted into the death of the deceased. His family prays for a non-custodial sentence as they depend on him.
5. The primary victim who was pursuing a degree in journalism, and was survived by an infant, who is now six years old, and he was the expected kingpin in his family who cry for justice.
6. It is stated that the local administration is ready to assist in reintegration and rehabilitation should the court consider a non-custodial sentence but it is not stated how the information was obtained and the source. It is recommended by the probation officer that the court considers a non- custodial sentence.
7. The Accused contravened Section 204 of the *Penal Code* which provides for a death penalty. In *Francis Karioko Muruatetu & another v Republic* [2017] eKLR the Supreme Court held that mandatory death penalty for murder was unconstitutional. The death penalty is however still available but it should be meted out in deserving cases.
8. The court has considered the facts of the case and the mitigation factors put forth. The sentencing process requires the court to balance the aggravating and mitigating factors and also consider the objectives of sentencing which include ensuring that the offender is adequately punished, preventing future crime, reforming the offender and making the offender accountable so as to promote a sense of responsibility.
9. The deceased an alleged transgressor was brutally punished by the Accused and others until he succumbed. This is a case where the probation officer has recommended release on probation without suggesting how the Accused will be reintegrated into the community. There is need for the Accused to be rehabilitated which can only be achieved while he is incarcerated.
10. Taking into consideration all factors and circumstances in which the offence was committed and the fact that the accused did not save judicial time; and, further, taking into account the period he was in remand-custody prior to being released on bond. (05/09/2019-24/12/2019) I hereby sentence him to serve Fifteen (15) years imprisonment to be effective from the 30/01/2025(Date of Judgment).
11. It is so ordered.
12. Right of Appeal is explained

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 7TH DAY OF MAY, 2025.**

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**L.N. MUTENDE**

**JUDGE**

