



**Republic v Wanyama (Criminal Case 24 of 2016)  
[2025] KEHC 8031 (KLR) (9 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8031 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL CASE 24 OF 2016  
WM MUSYOKA, J  
JUNE 9, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SYLVIA OJIAMBO WANYAMA ..... ACCUSED**

**RULING**

1. The accused was convicted of murder on 19<sup>th</sup> February 2019. She was sentenced to death the same day.
2. She appealed against the judgement and sentence of 19<sup>th</sup> February 2019, in Kisumu CACRA No. 80 of 2019. That appeal was dismissed, vide a judgement delivered on 18<sup>th</sup> December 2024. Following *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki & Lenaola, SCJJ), the Court of Appeal set aside the death sentence, and remitted the matter to the High Court, for re-sentencing. It is on that basis that the file is now before me.
3. The file was placed before me on 3<sup>rd</sup> April 2025, and I directed that Mr. Onsongo, the Advocate for the accused, be notified. He was. The matter was then mentioned on 30<sup>th</sup> April 2025, when I directed that a pre-sentence report be prepared.
4. The pre-sentence report was presented on 19<sup>th</sup> May 2025. Mr. Onsongo addressed me, in mitigation, on 3<sup>rd</sup> June 2025. He stated that the accused was aged 22 years when she was convicted. She was said to be remorseful, and regretted the incident. He also submitted that she had undergone reformation and rehabilitation. She was also said to have had sought forgiveness from the family of the deceased and from her own relatives. It was further submitted that the probation report was favourable.
5. I have considered the mitigation offered on behalf of the accused, the pre-sentence report, the fact that she was a first offender, and the fact that she was a young person at the material time.



6. The pre-sentence report suggested provocation, but the facts presented in that report were not placed before the court, for the person behind them, the husband of the accused, did not testify in her defence, and at all. The person, to whom the said facts are attributed, Barack Barasa, did not testify. The person who testified was Michael Barasa, and the version of events he narrated to court, on 21<sup>st</sup> January 2017, are not on all fours with the narrative in the pre-sentence report.
7. Anyhow, guided by *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki & Lenaola, SCJJ), I shall proceed to sentence the accused based on the considerations in paragraph 5 here above.
8. I was urged to consider a non-custodial measure, or to find the period of nine years that the accused has spent in prison custody, pending her appeal, adequate, and, therefore, to consider sentencing her to that period. The time served may not be adequate. She was not even serving time. She was in limbo, awaiting determination of her appeal. A life was lost, in a dastardly manner. The defence, suggested in the pre-sentence report, would have moved me, to consider a non-custodial measure, or even to find the period served adequate, if it had tallied with the recorded evidence. It does not. Releasing the accused, after serving nine years may send the wrong message. The conviction herein is for murder, which conviction was upheld by the Court of Appeal. I shall consider custodial measures instead.
9. Consequently, I do hereby sentence the accused to serve fifteen years in prison, to be counted from the date of her arrest. Orders accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA ON THIS 9<sup>TH</sup> DAY OF JUNE 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Fredrick Barasa Ongulu, Probation Officer.

Advocates

Mr. Onsongo, Advocate for the accused person.

Mr. Onanda, instructed by the Director of Public Prosecutions, for the Republic.

