



**Republic v Korir (Criminal Case 59 of 2019)
[2025] KEHC 9838 (KLR) (Crim) (8 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 9838 (KLR)

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

**CRIMINAL
CRIMINAL CASE 59 OF 2019**

K KIMONDO, J

JULY 8, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

KELVIN KIPROP KORIR ACCUSED

SENTENCE

1. The accused was adjudged guilty of murder on 4th March 2025.
2. On 8th April 2025, I conducted a sentencing session and heard submissions from the learned prosecution counsel, Ms. Kigira, and, learned counsel for the accused, Mr. Kingoina.
3. I have considered the circumstances surrounding this offence. On 23rd August 2019, the accused and his accomplice attacked and stabbed the deceased with a sharp object that perforated his lung. It was pre-meditated violence to rob the hapless victim. By doing so, he and his accomplice knew or ought to have known that it was likely to cause grievous harm or death.
4. Before the trial commenced, and to be exact on 24th October 2019, the court ordered for an age assessment report. This followed a claim by the defence counsel that the accused was a minor. A report from Mbagathi District Hospital dated 28th October 2019 under the hand of Dr. Wafula, Dental Specialist, was filed. He found that the accused was approximately 18 years. Plea was subsequently taken on 12th November 2019.
5. So much so that though the accused has been held at the Kamiti Y.C.T.C section, he was an adult throughout his trial.
6. The CRO report indicates that the accused has no previous records. However, learned prosecution counsel implored the court to take into account the grave nature of the offence and its impact on the



family of the victim. Counsel underlined that the accused “deliberately stabbed the deceased to death” and also stabbed a witness in a separate incident the same night.

7. I have also taken into account the mitigation tendered by his learned counsel. Principally, he submitted that the accused is a first offender and is remorseful. He is a first-born child from a poor family and never intended to kill the deceased. Counsel also urged the court to take into account the six years spent in remand and mete out an appropriate non-custodial sentence.
8. In a synopsis, it was a plea for clemency to enable the accused to start a new chapter in life.
9. I have also paid heed to the pre-sentencing report under the hand of Salome Muthoni, Probation Officer, dated 12th June 2025. The report does not recommend a non-custodial sentence.
10. The Victims Protection Act decrees that the views of the victim’s family be considered at this stage. From the pre-sentence report, the deceased was the sole bread winner for his nucleus family. He was also taking care of his paraplegic brother and ailing mother. The accused’s violence driven by greed of other people’s property thus led to loss of life and unnecessary anguish for the family of the deceased.
11. 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.
12. I stated earlier that the medical report from Mbagathi District Hospital dated 28th October 2019 established that the accused was approximately 18. The offence took place on 23rd August 2019. The age stated in the pre-sentencing report above that he is now 22 years is misleading. The accused is now well above 24 years.
13. 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 the orgy of violence perpetrated by the accused; and, the impact it has had on the victim’s family, I agree with the Probation Officer that a non-custodial sentence would not be appropriate. The fact that the accused used a lethal weapon to stab an unarmed man in the chest was reckless and remains an aggravating factor.
14. I accordingly sentence the accused person to ten (10) years imprisonment. In accordance with section 333 (2) of the *Criminal Procedure Code*, the sentence shall run from 24th August 2019 the date when he was first arrested and placed in custody.
15. 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 8TH DAY OF JULY 2025.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of: -

The accused.

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

Mr. Kingoina for the accused person instructed by Kingoina-Obuya & Company Advocates.



Mr. E. Ombuna, Court Assistant.

