



**Republic v Wambia & 4 others (Criminal Case (Murder)  
E014 of 2022) [2025] KEHC 10406 (KLR) (4 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10406 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
CRIMINAL CASE (MURDER) E014 OF 2022**

**REA OUGO, J**

**JULY 4, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JACOB BARASA WAMBIA ..... 1<sup>ST</sup> ACCUSED**

**SAUL WEKESA WAMBIA ..... 2<sup>ND</sup> ACCUSED**

**TIMOTHY SUNGUTI LUKORITO ALIAS TIMONA LUKORITO .... 3<sup>RD</sup>  
ACCUSED**

**SARAH NANJALA MAKOKHA ALIAS SARAH COSMA ..... 4<sup>TH</sup> ACCUSED**

**REUBEN WANJALA MAKOKHA ALIAS REUBEN COSMA ..... 5<sup>TH</sup> ACCUSED**

**SENTENCE**

1. The accused persons herein, Jacob Barasa Wambia(1<sup>st</sup> Accused), Saul Wekesa Wambia ( 2<sup>nd</sup> Accused), Timothy Sunguti Lukorito alias Timona Lukorito ( 3<sup>rd</sup> Accused), Sarah Nanjala Makokha alias Sarah Cosma ( 5<sup>th</sup> Accused) and Reuben Wanjala Makokha alias Reuben Cosma (6<sup>th</sup> Accused) are jointly charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#). Vide the judgement of 2<sup>nd</sup> May, 2025, they were found guilty and convicted accordingly.
2. Miss Matere for the prosecution submitted that the accused persons are first offenders .
3. This court requested pre-sentence reports from the probation department on 2nd May, 2025. The reports are dated 21st May, 2025. They indicate that all accused persons enjoy community acceptance to qualify for a non–custodial sentence. The deceased was widely known within the community for persistent criminal behaviour, including petty and livestock theft. Jacob (1st accused) is 37 years old, married with a wife and two children. He has no known criminal record, prays for leniency, and seeks a probation sentence. He is not a threat to the community. Saul (2nd accused) is 47 years old, married



with a wife and four children. He seeks mercy and a non-custodial sentence. He has no previous criminal record in the community. The deceased was his cousin. Saul attributes his involvement in the offence to alcohol abuse and a tendency for spontaneous and excitable participation in community affairs. His home environment is safe for his return. Timothy (3rd accused) is 48 years old, married with a wife and three children. He consumes alcohol, which sometimes impairs his reasoning. He has no criminal record in the community. His current situation has been attributed to peer influence and alcoholism. He seeks mercy and to regain his liberty. Sarah (5th accused) is 70 years old and a widow. She has no known criminal record and abuses alcohol, which impairs her judgment. She seeks leniency considering her age and health condition. She requests a non-custodial sentence. Reuben (6th accused) is 34 years old and prays for a non-custodial sentence. He was willing to pursue reconciliation with the deceased's family, as they are related. He has a wife and four children. The community indicates he is a habitual alcohol user but is hardworking and supports his family.

4. Mr. Maloba, for the accused persons, submitted the following in mitigation: Jacob is remorseful and pleads for leniency; he regrets being implicated in the murder. He has no criminal history and was at the wrong place at the wrong time. A long custodial sentence would forever destroy his young family. Saul pleads with the court to consider the circumstances under which the offence was committed and to pass a lenient sentence. He also regrets being implicated in the matter, is remorseful that the deceased suffered death in the circumstances he did, and has no criminal history. He was merely at the wrong place at the wrong time. A long custodial sentence would forever destroy his young family. Timothy pleads with the court to consider the circumstances of the offence and to impose a lenient sentence. He regrets being implicated in the murder and is remorseful that the deceased suffered death as he did. He has no criminal history and appeals for mercy; he was merely at the wrong place at the wrong time. A long custodial sentence would forever destroy his young family. Sarah pleads with the court to consider the circumstances of the offence and to pass a lenient sentence. She regrets her implication in the murder and is remorseful that the deceased suffered death in the way he did. She has no criminal history and states she was merely at the wrong place at the wrong time. She is seropositive and has been on treatment since 2011; a long custodial sentence would seriously impact her health and jeopardise the lives of the children she cares for before her conviction. Reuben also pleads with the court to consider the circumstances of the offence and to pass a lenient sentence. He regrets being implicated in the murder and is remorseful that the deceased suffered death in the circumstances he did. He has no criminal history and claims he was simply at the wrong place at the wrong time. A long custodial sentence would forever destroy his young family.
5. The presentence report also indicates that the victim's family is still bitter and requests that the court give the accused persons a sentence of between 30 and 40 years. The father has not healed from losing his 21-year-old son.
6. I have considered the guidelines in our Sentencing Policy; the key principles as follows; Deterrence- Discouraging the offender and others from committing similar crimes. Rehabilitation- Enabling the offender to reform and become a law-abiding citizen. Retribution- Punishing the offender justly for their actions. Community Protection- Safeguarding society by incapacitating the offender. Restorative Justice- Addressing the harm caused by the crime and finding ways to repair it. Proportionality-: Ensuring the punishment fits the crime. Factors to consider whilst sentencing are; Gravity of the offense: The severity of the crime and its consequences. Motive and circumstances: The reasons behind the crime and the context in which it occurred. Offender's background: Age, prior criminal record, and any mitigating factors. Victim impact: The harm caused to the victim and their needs. Social impact: The effect of the crime on the community. Possibility of rehabilitation: The likelihood of the offender reforming.



7. “Mob justice or mob action” occurs when the persons involved take the law into their own hands against a suspect or offender. What should happen is that the alleged offender or suspect should be arrested and taken to the police for processing before being brought before a court of law.
8. In the case *Chengo & 4 others v Republic* (Criminal Appeal 80, 81, 82, 83 & 84 of 2022 (Consolidated)) [2023] KECA 1069 (KLR) (22 September 2023) (Judgment) the court stated, as regards the sentence;

“we find the sentence of 35 years imprisonment from the date of their arraignment in court on 5th November, 2018, in the circumstances of this case where death resulted from a mob action in which the 1st, 2nd and 3rd Appellants were involved, manifestly excessive. We set aside the sentence of 35 years and substitute there for a period of 20 years imprisonment. We do not disturb the period of the commencement of the conviction which the learned judge found to run from the date of their arraignment in court on 5th November, 2018.
9. In *Republic v Busuru alias Moreen & 3 others* [2025] KEHC 4025 (KLR) the court whilst sentencing accused persons who had been convicted of murder in a case of mob action, stated as follows;

“For these reasons, and taking into account all relevant factors cumulatively, I hereby sentence each of the four accused persons, Juliet Busuru alias Moreen, Paul Osinde, Gregory Mayebo alias Job, and Benjamin Njenga, to twenty-five (25) years imprisonment for the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. However, in accordance with section 333(2) of the *Criminal Procedure Code*, I hereby order that the periods already spent in custody be deducted from their respective sentences as follows.”
10. The deceased was beaten to death on allegations that he was a chicken thief. The accused persons, along with others, not before the court, took the law into their own hands. Mob action is not justice, it is mob injustice. In my view, the accused persons deserve a custodial sentence. I therefore sentence Jacob Barasa Wambia to serve 20 years imprisonment, Saul Wekesa Wambia to serve 20 years imprisonment, Timothy Sunguti Lukorito to serve 20 years imprisonment and Reuben Wanjala to serve 20 years imprisonment for the offence of murder of Kennedy Wekesa. Sarah Nanjala Makokha, due to her age, is sentenced to serve ten (10) years' imprisonment. The period they have been in remand will be taken into account in compliance with Section 333(2) of the *Criminal Procedure Code*.

**DATED, SIGNED AND DELIVERED AT BUNGOMA ON THIS 4<sup>TH</sup> DAY OF JULY 2025.**

**R.E.OUGO**

**JUDGE**

In the presence of:

Jacob Barasa Wambia/ 1<sup>st</sup> Accused

Saul WEkesa Wambia/ 2<sup>nd</sup> Accused

Timothy Sunguti Lukorito/3<sup>rd</sup> Accused

Sarah Nanjala Makokha/ 5<sup>th</sup> Accused

Reuben Wanjala Makokha/ 6<sup>th</sup> Accused

Mr. Maloba - For the Accused persons

Miss Matere - For the State



Mr. Wasilwa watching brief for the victim's family.

Brenda - C/A

