



**Republic v Waithera (Criminal Case E083 of 2022)
[2025] KEHC 13119 (KLR) (Crim) (23 September 2025) (Sentence)**

Neutral citation: [2025] KEHC 13119 (KLR)

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

**CRIMINAL
CRIMINAL CASE E083 OF 2022**

**K KIMONDO, J
SEPTEMBER 23, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

FRANCIS NJUGUNA WAITHERA ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 8th July 2025.
2. The true motive for this murder may never be known. But a snippet can be gleaned from the lengthy facts read out at the trial: On the night of 20th November 2022, Clinton Omae (hereafter the deceased) accompanied by another man known as Gitau forced their way into the accused's house in the shanties of Fuata Nyayo, Nairobi.
3. An ugly fight ensued between the accused and the deceased. According to the accused, the deceased stabbed him on the head and thigh just below the buttocks. He in "self-defence" picked a big kitchen knife and stabbed the deceased in the stomach. The deceased was rushed to Lengo Dispensary but succumbed to the fatal wound. The body was removed to the City Mortuary.
4. According to a neighbour, Jackline Osoro, she saw Gitau knocking on the accused's door. Moments later she heard a bang and the accused person screaming "why do you want to kill me in my house?". She then saw the accused emerge from his house with blood oozing from his head. His clothes were also blood-soaked.
5. The motivation for this attack goes back to an earlier incident in the day at about 15:00 hours when the deceased's wife, Lilian Khatenje Milimu, had a brush with the accused. According to her, the accused



blocked her path. She pushed him away but he hit her on the back. Members of the public intervened and the two went their separate ways. Although she never told her husband, it appears that Gitau witnessed it and informed the deceased. That may explain why the two confronted the accused in his house leading to the fight.

6. The autopsy report by Dr. Peter Ndegwa (exhibit 1) confirms that the cause of death was “exsanguination due to due to abdominal injuries due to a stab wound” which is consistent with the facts read out at the trial and now admitted by the accused.
7. Learned prosecution counsel, Ms. M. Kigira, confirmed that the accused is a first offender. She however sought a deterrent custodial sentence taking into account the nature of the attack, aggravating circumstances and the impact on the victim’s family.
8. There is then the mitigation tendered on behalf of the accused by his learned counsel, Ms. Kathambi Kinoti. She prayed for a non-custodial sentence. She submitted that the accused is remorseful and has undergone reform in prison through Safari ya mfungwa course. She emphasized that the fight was orchestrated by the deceased and that in all the circumstances of this case, the accused was defending himself and sustained a head injury in the process. Counsel added that he is a father of two children now living with his ailing mother.
9. I have also perused the pre-sentencing report dated 12th September 2025 under the hand of Ms. Salome Muthoni, Probation Officer, Nairobi. The accused is 37 years old and a father.
10. On the other hand, is the victim’s family. According to the report, the deceased was aged only 26. As earlier stated, he was married to Lilian Khatenje Milimu. The report states that he was the source of financial support to his parents and that “the psychological loss has deep and far reaching consequences...”.
11. I have kept in mind that the deceased and his friend Gitau confronted the accused in his house. From the facts read out, the accused was stabbed on the head and his clothes were bloodstained. He was taken to Mbagathi Hospital for treatment by the police. On the other hand he applied lethal force by using a big kitchen knife to stab the deceased in the stomach. This remains an aggravating factor which has ended in needless agony for the two families and their dependents.
12. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. Justice of the case thus demands a custodial sentence. It will also afford the accused a further opportunity for reform.
13. I accordingly sentence the accused to serve four (4) years in jail. In accordance with section 333 (2) of the Criminal Procedure Code, the sentence shall run from 20th November 2022, the date when he was first arrested and placed in custody.
14. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23RD DAY OF SEPTEMBER 2025.

KANYI KIMONDO

JUDGE



Sentence read virtually on_ Microsoft Teams in the presence of

The accused.

Ms.....for the Republic instructed by
the Office of the Director of Public Prosecutions.

Ms.....for the accused.

Mr. E. Ombuna, Court Assistant.

