



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Ogesi alias Brown & 3 others (Criminal Case 3 of 2016)
[2025] KEHC 12509 (KLR) (Crim) (10 September 2025) (Sentence)**

Neutral citation: [2025] KEHC 12509 (KLR)

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

**CRIMINAL
CRIMINAL CASE 3 OF 2016**

**LN MUTENDE, J
SEPTEMBER 10, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

**ALFRED MARANYA OGESI ALIAS BROWN.....1ST ACCUSED AMANI
AKASI ALIAS WASIWASI 1ST ACCUSED
MARIGO PROTUS ALIAS SARARA 2ND ACCUSED
AMANI AKASI ALIAS WASIWASI 3RD ACCUSED
JULIUS OMANYO OCHIENG 4TH ACCUSED**

SENTENCE

1. Alfred Maranya Ogesi alias ‘Brown’, the 1st Accused; Amani Akasi alias ‘Wasiwasi’, the 2nd Accused; Marigo Protus Sarara alias ‘Sarara’; the 3rd Accused; and Julius Omanyu Ochieng, the 4th Accused, respectively, were jointly indicted, pronounced guilty, convicted for the murder of Irungu Kamau(Deceased) an incident that occurred on the 16th day of September, 2013, at around 7:30 pm at Nyam Hotel, along Duruma Road within Nairobi County.
2. No previous records were availed in respect of the Accused persons hence they are perceived to be first offenders.
3. Pre-sentence reports were filed in respect of all the Accused. The 1st Accused continues to deny having committed the offence. However, he prays for leniency and feels for the family of the deceased, for their loss. The community through an unnamed village elder and former colleague at the Nairobi County vouched for his good character and social standing in the community and that of the family. An



- unnamed village elder who purportedly hailed from a place not indicated, described him as resourceful and hardworking with a pillar in the community.
4. The 2nd Accused is stated to be generally penitent accepting the entire ordeal as a learning experience hence seeking a second chance being the family provider. He empathizes with the family of the deceased and extends an olive branch to them. The community through the area chief, Esther Nikoche hails him as a leader and mentor for young boys in the community. That he has never been in conflict with the law.
 5. The 3rd Accused is stated to be generally contrite. Seeking a second chance he regrets the role he played that resulted in the death of the deceased. The community through the area chief, Mwitwa Senza found the arraignment shocking as he had never been in conflict with the law.
 6. The 4th Accused denies having committed the offence but seeks leniency in order to be accorded a second chance. The community through an unnamed local administrator described him as a resourceful and hardworking person.
 7. The primary victim had 4 young children at the time of his demise. He was the pillar of both the nuclear and extended family, financially. They are affected psychologically. The widow of the deceased fears resuming her normal hawking activities due to fear of intimidation.
 8. In mitigation through learned defence counsel, Mr. Ario for the 1st and 4th Accused, it is urged that the accused are first-time offenders who served as a county Askaris (constables) tasked with responsibilities including implementing county by-laws and they have no disciplinary record. That the Accused are sole breadwinners of their dependants who comprise of spouses and children, aged parents and siblings. In this regard reliance is placed on Republic v Tinega [2022] KEHC 18069(KLR) where the offender who cut his own toddler who later died was placed on probation.
 9. That he expresses genuine remorse for the events that followed the tragic loss as irreparable loss was caused to the deceased family. He called upon the court to consider a non-custodial sentence.
 10. The 2nd Accused through learned counsel Ms. Nyang reiterates what is stated in the pre-sentence report that he is of good standing with the community both in Nairobi and the rural area, a participant in social and recreational activities within the community. That he is the sole bread winner of the large family and still maintains innocence but prays for a lenient sentence.
 11. The 3rd Accused through learned counsel, Mr. Mogikoyo urged that he is a first offender who seeks leniency. That he is married to two wives with six children who solely depend on him for livelihood. His elderly parents also depend on him. That he has given a sterling service to the county government which contributed to good order and conducive business environment within the Central Business District, Nairobi. He regrets the incident and is deeply remorseful. He has gone through anguish hence seeks a lenient sentence.
 12. 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 declared death sentence unconstitutional. The substratum being that death penalty contravenes *the constitution* which emphasizes the right to fair trial and the sentence itself being degrading and inhuman.
 13. This however does not mean that death penalty cannot be imposed. Statute that provides for death penalty has not been amended hence courts have the discretion to determine the sentence depending on the circumstances of the offence.
 14. The judiciary sentencing policy guidelines which forms the basis of the sentencing process provides that the sentence meted out must be proportionate to the offending behaviour. The punishment must



not be more or less than is merited in view of the gravity of the offence. Proportionality of the sentence to the offending behaviour is weighted in view of the actual, foreseeable and intended impact of the offence as well as the responsibility of the offender.

15. In *Daniel Kipkosgei Letting v Republic* [2021] eKLR the Court of Appeal pronounced itself as follows;

“With regard to the above, we observe that the purpose and objectives of sentencing as stated in the Judiciary Sentencing policy should be commensurate and proportionate to the crime committed and the manner in which it was committed. The sentencing should be one that meets the end of justice and ensures that the principles of proportionality, deterrence and rehabilitation are adhered to”

16. This court has considered evidence adduced and the mitigation factors put forth. Punishment must be aligned to severity of the crime because consequences should be commensurate to the wrongdoing. The public can only have confidence in the justice system if the scales of justice upholds both the rights of the accused and the victims. It is for that reason that 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.
17. The deceased succumbed to fatal injuries as proved by brutal intended death. The act committed was heinous.
18. Rehabilitating an offender may be complex as it would call on focusing on not only social but psychological attitudinal aspects. There would be need to identify what may have contributed to the violent behaviour and what intervention is needed to address it. This can only be achieved when the offender is incarcerated.
19. Looking at comparable decisions and guided by the authorities cited, and also taking into consideration all factors and circumstances in which the offence was committed and the fact that the accused did not save judicial time, I sentence each Accused to serve twenty five(25) years imprisonment to be effective from the date of conviction, the 7th day of May, 2025.
20. It is so ordered.
21. Right of Appeal is explained.

DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT NAIROBI,

THIS 10TH DAY OF SEPTEMBER, 2025.

L. N. MUTENDE

JUDGE

