



**Republic v Wasike (Criminal Case E005 of 2023)  
[2024] KEHC 10702 (KLR) (6 August 2024) (Sentence)**

Neutral citation: [2024] KEHC 10702 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
CRIMINAL CASE E005 OF 2023  
REA OUGO, J  
AUGUST 6, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**MOSES WANJALA WASIKE ..... ACCUSED**

**SENTENCE**

1. Moses Wanjala Wasike, the accused, has been convicted of the offence of murder of his wife Sylvia Kahyecha Wasike. The accused is a first offender. After conviction, I sought a pre-sentence report on the accused. The report states as follows; the accused is 26 years old. He lives with his parents and siblings. He is the last born of eight children. He started cohabiting with the deceased from 2021 until her death. They have no children. The accused was a boda boda rider. Due to his excessive drinking habit, his union with his wife was marred by a series of domestic conflicts, but he had not been arranged before. His family suspected he uses drugs. During the interview, he still maintained that he did not harm his wife. His family recalled that he disagreed with his wife on the fateful night. He was not remorseful. The victim’s family through the sister stated that although the required rituals were done, the offender deserved some punishment for taking away the life of the sister. The perception of the offender by the community was that the accused was an individual who was embroiled in domestic conflict and was linked to criminal groupings in the community and that he is engaged in alcohol and drug abuse which made it difficult to manage in terms of behaviour. He does not respect authority. Local administrators opposed any form of non-custodial sentence and stated that the accused needed a deterrent sentence to serve as a warning to others in the community with similar behavior. His family does not mind him being given a non-custodial sentence, they state they will take responsibility of his safety in the community, and they will help them resettle. After the various interviews, the probation officer recommends that the offender does not deserve a non-custodial sentence and the court passes an appropriate sentence.



2. Mr Oira for the accused stated as follows in mitigation; the accused regrets the events of the material day and that he is a first offender and has no previous criminal record, he is a young man with a future ahead of him. He has been in prison for one and a half years and he has reformed. The community is ready to resettle him back into society and his father has been reaching out to the deceased's family. The accused seeks a non-custodial sentence.
3. I have considered the pre-sentence report the accused's mitigation and the guidelines on sentencing. Murder is a very serious offense and the penalty provided in law is death, however, this court has the discretion to sentence the accused to a jail term or probation, depending on the facts of each case and mitigating factors.
4. I have also considered the period the accused has spent in remand. A life was lost and a sentence is not a measure of the value placed on the life of a victim. The victim was in an abusive marriage and lost her life due to injuries caused by the accused over monies she chose to keep because of the accused's behavior, his drinking and drug habit, which his own family confirms has been a problem to them and the community too. The victim's family is still hurting and seeks that the accused be punished for taking the victim's life. The victim died at an early age of 20 years. She sought to help her husband but he beat her and caused injuries to her which led to her death. The accused was not provoked at all. Though he seeks a non-custody I am not persuaded he deserves a non-custodial sentence. Though his family wants him back home, the community does not. I note the accused had been in remand for one and a half years. I have taken this period into account. I therefore sentence the accused Moses Wanjala Wasike to twenty ( 20) years imprisonment. The 20 years begin from the date of sentence. The accused has a right to appeal within 14 days.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT BUNGOMA ON THIS 6<sup>TH</sup> DAY OF AUGUST 2024.**

**R.E.OUGO**

**JUDGE**

In the presence of;

Moses Wanjala Wasike/ Accused - Present in person

Mr. Oira for the Accused - Absent

Miss Kibet For ODDP

Wilkister - C/A

