



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kinoti v Republic (Criminal Case E009 of 2021)  
[2024] KEHC 11471 (KLR) (1 October 2024) (Sentence)**

Neutral citation: [2024] KEHC 11471 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NANYUKI  
CRIMINAL CASE E009 OF 2021  
AK NDUNG'U, J  
OCTOBER 1, 2024**

**BETWEEN**

**PETER KINOTI ..... ACCUSED**

**AND**

**REPUBLIC ..... PROSECUTOR**

**SENTENCE**

1. The Accused, Peter Kinoti was charged with Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars were that on the 3<sup>rd</sup> day of September, 2021, at Maritati Location, Buuri Sub-County, within Nyeri County, murdered Florence Kawira.
2. On inquiry by the probation department, the accused stated that on the material day the two were alone with their child in their house when he says an altercation occurred and he stabbed her with a kitchen knife. He is not forthcoming as to what exactly transpired and it is clearly something he is reluctant to discuss indicating the traumatic effects for what occurred. It must be noted that he admits to having been intoxicated from miraa and alcohol.
3. An interview of the victim family members, specifically her parents and an older brother in a social inquiry was conducted. Clearly they are still distraught about what happened. The mother of the deceased was still grieving deeply over the loss of her daughter who was their last born in a family of five siblings.
4. They live roughly two kilometers from the offender's home and therefore it is a neighbour who knocked at their door to bring them the distressing news in the dead of the night on that fateful day plaguing them into emotional anguish that was only exacerbated upon their arriving to a blood-soaked scene. Nothing can repair the damage to their psyche with the mother developing hypertension from then on and being put on medication to manage the condition.



5. Her siblings as well as the community were also thrown into shock and anger. A brother to the deceased, is said to have flushed out the offender from his hideout and subjected him to such an assault that had the offender admitted at the Nanyuki Level 5 Hospital for four days in a critical condition prior to his arrest and subsequently being charged with this offence. He still has yet to fully recover from the injuries sustained.
6. Further to the assault on the offender, the family of the deceased also vandalized his house carting away household items and valuable documents such as title deeds to the two pieces of land that offender is a beneficiary of. This included building materials to his house, pulling down iron sheets to the three - bedroom house that offender's aunt had built and left to him upon her demise in February 2021 a few months prior to him committing this offence.
7. Father to victim cites that he has used over 500,000/= since the daughter's demise and that he has taken up the upbringing of the child she left behind aged 5 years. At the time of the murder the child was aged around 2 years and is also exhibiting some trauma and could require specialized therapy which he has not yet been given as he witnessed the fatal fight.
8. According to the report the Accused is sorry and remorseful. Only the two of them himself and the deceased know what exactly happened but he wishes he could take all that back.
9. The history of the offender is that, after being left by his mother who left to get married, he was brought up by an aunt who took him in as she was childless. He has therefore lived his life between his grandparents' home in Meru and Timau his Aunt's place and she has no previous history of criminal behavior.
10. Upon completing high school, he did odd jobs and has also worked in flower farms within Timau. The victim was his wife that he had married in 2019 and with whom they had one child together.
11. His aunt, sister to his mother, took him in and brought him up and named him as her beneficiary of her properties within Timau and Nanyuki.
12. Going back to the vicinity of Meru has been cited as likely to be risky in as far as his security is concerned with several neighbor's as well as area provincial administration citing the victim's family as extremely volatile and could react in an untoward manner toward the offender.
13. The Probation Department would recommend that a non-custodial sanction might not be appropriate presently but could suffice in the future due to the fact that victim persons' emotions are still raw two years down the line.
14. The Accused faced a capital charge. A young life was needlessly lost leaving casualties behind including a 2 year old child and parents of the deceased among others.
15. A deterrent sentence would be called for.
16. I have however considered the mitigation put forth by counsel for the accused and further noted that the Accused has since regretted his harmful act. He has voluntarily agreed to cede and transfer a piece of land to Naftaly Kinyua of ID No. 16115476, the father of the deceased being parcel no. Nanyuki Marura Block4/288 (Kimuri) measuring 0.22 HA in an agreement signed on 11<sup>th</sup> June 2024.
17. This is in line with the plea agreement signed and accepted by the court in which he gave the undertaking to compensate the victims.
18. The foregoing is a huge mitigating factor that would impact on the likely sentence that the Accused would face.



19. I cannot however lose sight of the gravity of the crime. Whereas the court must in the circumstances of this case be inclined to mete out a lenient sentence, a purely non-custodial sentence would in my view be inappropriate. At the same time, the Accused has mitigated enough to deserve a lenient sentence. I note the accused has been in custody for 3 years and in line with section 333(2) of the *Criminal Procedure Code*, I have factored that period in considering the appropriate sentence.
20. I in the circumstances sentence the accused to 3 years imprisonment. Within the initial period of the term of imprisonment the Accused is to execute the necessary documents for the transfer of the land.

**DATED SIGNED AND DELIVERED IN OPEN COURT THIS 1<sup>ST</sup> DAY OF OCTOBER, 2024.**

**A.K. NDUNG’U**

**JUDGE**

