



**Republic v Wachira (Criminal Case E048 of 2020)
[2023] KEHC 945 (KLR) (Crim) (16 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 945 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E048 OF 2020
DO OGEMBO, J
FEBRUARY 16, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

ISAAC GICHUKI WACHIRA ACCUSED

RULING

1. The accused herein was Isaac Gichuki Wachira, was initially charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). He has plea bargained and pleaded guilty to the lesser charge of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#), Cap 63 Laws of Kenya. He has accordingly been convicted of the same.
2. In mitigation, the accused has raised a number of issue for consideration including.
 - i. That upon commission of the crime, he surrendered himself to Kayole police station and has fully cooperated with the investigators.
 - ii. That it was an act of self defence as deceased first attacked him.
 - iii. That it was night and the 2 were intoxicated.
 - iv. That he has written a confession and asks for forgiveness.
 - v. That he is remorseful and regrets what happened.
 - vi. That he is a sole bread winner and provider of 2 school going children.
 - vii. That he is a first offender. He pleads for a lenient sentence.



3. From the side of the prosecution, it has been noted the following:
 - i. That a young lady aged 29 years lost her life in this incident and she was attacked at her work place.
 - ii. That deceased was sole bread winner of her 6 year old son who now is an orphan and staying with his aged grandmother.
 - iii. That the family of the deceased is traumatized over the loss of their breadwinner.
4. A plea was made for a custodial sentence that reflects the seriousness of the offence and dignity of the deceased.
5. Prior to the above mitigations being raised, the court obtained a probation officers pre-sentence report. Same dated February 9, 2023 has duly been filed. Of note from the report is the negative attitude of the family of the deceased towards the accused i.e the family is aggrieved even of the fact accused had been granted bail. They are still hurting and pray for punitive sentence.
6. The sentencing policy guidelines provides for the rational and purpose of sentencing. Amongst the objectives noted are retributions, deterrence, rehabilitation, restorative justice, community protection and denunciation.
7. I have considered the circumstances of this case, and the mitigation raised by the accused. A young lady in her prime, at 29 years, lost her life, leaving behind a young son. The accused acted rather cruelly in disappearing from the scene, leaving the body of the deceased at the scene. His intention was to escape and were it not for his father, he probably may not have presented himself to the police. I am in the circumstances convinced that the accused deserves a deterrent custodial sentence.
8. I accordingly sentence the accused to serve 15 years imprisonment. This sentence shall run from the date of this sentence. He has 14 days right of appeal.

D. O. OGEMBO

JUDGE

16TH FEBRUARY, 2023

Court:

Ruling read out in open court in the presence of the accused, Mr. Kioko for the accused and Ms. Njoroge for the state.

D. O. OGEMBO

JUDGE

16TH FEBRUARY, 2023

Mr. Kioko:

We pray that security documents be released.

Ms. Njoroge:

That is okay.

Court:

Security documents may be released to the surety as prayed.

