



**Republic v Wairimu (Criminal Case 19 of 2015)  
[2023] KEHC 1374 (KLR) (2 March 2023) (Sentence)**

Neutral citation: [2023] KEHC 1374 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MURANG'A  
CRIMINAL CASE 19 OF 2015**

**J WAKIAGA, J**

**MARCH 2, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JAMES KIMANI WAIRIMU ..... ACCUSED**

**SENTENCE**

**Sentence**

1. The convict was initially charged with the offence of murder contrary to section 203 as read with section 204 of the *penal code*.
2. By a plea bargain agreement dated September 23, 2022 entered into between the accused and the Prosecution and accepted and recorded in Court on the 23<sup>rd</sup> day of November 2022, the said charges were reduced to manslaughter, the particulars of which were that on the 3<sup>rd</sup> day of April 2013 unlawfully caused the death of Beatrice Mukami Gitahi, to which he pleaded guilty.
3. The brief facts were that the accused and deceased were living together as husband and wife in a rented premise with the deceased two children from a previous relationship and that there were rumours that the deceased was cheating on him with the father of one of the children.  
  
On the material day, the deceased came home drunk and a quarrel ensued between them leading to the accused stabbing her with a knife before running away from the scene
4. In mitigation, the accused stated that he was a first offender and had been in custody for the last seven (7) years during which period of time, he had reflected upon his life and was remorseful. He sought for a none custodial sentence.
5. The state confirmed that he was a first offender but submitted that as a result of the action by the convict, two children lost the love of their mother.



6. To enable the court to decide on an appropriate sentence, I called for presentencing report, where it was stated that the offender never intended to kill the victim and blamed his hot temper. He stated that the death of the victim had haunted him and that he had learnt his lesson during the period he had been in custody.
7. On the family view the mother pleaded for leniency on his behalf, while the community stated that the offender had been troublesome as a teenager who abused bhang and alcohol with bad reputation before his arrest but were not opposed to none custodial sentence on condition that he had reformed.
8. On the victim impact, it was stated that the victim was a girlfriend of the accused, whose mother died when she was young, leaving her in the care of her father, who developed health complications as a result of her death. She left behind two children who were now under the care of her brother who had forgiven the convict.
9. In conclusion and recommendation, it was stated that the area administration did not have a problem with the convict since the offence took place in different locality and that whereas the same did not any formal skill and or course, his mother had promised to help him settled.

### **Determination**

10. Sentencing objectives are retribution, deterrence, incapacitation, rehabilitation denunciation community protection and restitution as captured in the *Judiciary Sentence Guidelines* at Clause 4.1. In this cause from the mitigation by the convict and the pre-sentencing report, the most suitable objective is rehabilitation taking into account the fact that the convict has been in remand custody for a period of almost eight years which to my mind has satisfied the objectives of retribution and deterrence.
11. The incident herein, was caused by the suspicion of infidelity on the part of the deceased who is alleged to have been having an affair with the father of the children the convict had taken as his own and being an insecure man who had taken over someone else wife. His action though not justifiable is understandable taking into account the times under which we are living.
12. I would therefore sentence the convict to a probating period of three years during which period of time he shall be helped to resettle in society.
13. It is ordered.

**DATED, SIGNED AND DELIVERED AT MURANGA THIS 2<sup>nd</sup> DAY OF MARCH 2023**

**J. WAKIAGA**

**JUDGE**

In the presence of:

Court Assistant: Quinteen James

