



Republic v Wafula (Criminal Case 17 of 2017) [2023] KEHC 3887 (KLR) (2 May 2023) (Ruling)

Neutral citation: [2023] KEHC 3887 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 17 OF 2017**

MM KASANGO, J

MAY 2, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

ANTONY BARASA WAFULA ACCUSED

RULING

1. Antony Barasa Wafula was convicted by this Court on March 10, 2023 of the offence of murder. The deceased, Mary Njoki Chege was the convict’s girlfriend.

Background

2. On February 22, 2017 the convict visited the deceased. The deceased was in her house with her friend Hannah. Hannah left the house for 20 minutes leaving the deceased and convict quarreling. On her return Hannah found the deceased lying down on the bed with a kitchen knife embedded on her forehead. Only the knife’s handle was visible. The convict was not in the house.
3. This Court after assessing the prosecution’s evidence and the defence offered by the convict, convicted the convict as charged. Having convicted him this Court is now tasked with the responsibility of sentencing him.

Analysis

4. The convict relied on mitigation of his learned counsel Mr. Njehu and he also eloquently presented his own mitigation. The convict accepted, as he mitigated, that he fatally stabbed the deceased. There was no suggestion at all that in stabbing the deceased the convict acted out of any threat by the deceased.
5. A term of sentencing for any crime committed should contribute to the respect for the law and maintenance of a just, peaceful and safe society.



6. The murder of the deceased by the convict was brutal callous and senseless. The convict by stabbing the deceased on the forehead, leaving that knife embedded in her head and leaving the deceased writhing in pain shows he had little regard for her life. Although the convict in mitigating stated that he is remorseful and is now reformed the paramount consideration in my sentencing of the convict shall be deterrence and denunciation of the crime of murder. In sentencing I find and hold that the circumstances of the case death sentence is not appropriated but rather custodial sentence would be proportionate in my view. I also have noted that the convict does not have previous criminal conviction.

Disposition

7. Having considered the submissions of counsel and of the convict and the fact the convict's adherence to his religion, which I noted he is very dedicated to, it is my view that the appropriate sentence in this case is custodial sentence. I therefore order Antony Barasa Wafula to serve 15 (Fifteen) years imprisonment for the murder of Mary Chege (deceased). In calculating that sentence, he will be given credit for 6 (six) years, the period for which he was remanded in custody.

JUDGMENT DATED AND DELIVERED AT KIAMBU THIS 2ND DAY OF MAY, 2023.

MARY KASANGO

JUDGE

In the presence of

Convict (Antony Barasa Wafula): - Present

Mr. Njehu for Convict: - No appearance

Mr. Gacharia for the State: - Present

Ruling delivered virtually.

