



REPUBLIC OF KENYA



**Republic v Martin (Criminal Case E007 of 2020)  
[2023] KEHC 19039 (KLR) (13 June 2023) (Sentence)**

Neutral citation: [2023] KEHC 19039 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL CASE E007 OF 2020**

**A. ONG'INJO, J  
JUNE 13, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**PAPA BOUTROS MARTIN ..... ACCUSED**

**SENTENCE**

1. This court has considered mitigation made by Ms Ayieko Advocate on behalf of the accused and confirmed that indeed the accused has 2 children who are twins aged one-year-old as at February 24, 2021 – currently – 3 years and that the children are now in custody of accused persons in-law in Nairobi as the wife Rita Atieno went to reside and work in Vanga following his arrest.
2. Although it has been submitted that the offence was not pre-meditated, evidence adduced by prosecution witnesses, particularly PW 2 testified that he saw accused armed with a knife and on inquiring why he was walking with a knife the accused told him that if he found the 2 young men who stole his phone they would either produce the phone or he would tear their intestines apart.
3. Accused person executed his plans by stabbing the deceased person deeply on the chest and penetrated his heart thus resulting into fatal profuse bleeding. The accused 48 years old man cornered/waylaid the deceased, a young man of 28 years in a narrow corridor where he had no way of escape and there was no one to rescue him and he inflicted the fatal injuries.
4. PW 3 tried to restrain the accused person from inflicting injuries on the deceased but he was enraged and persistently struggled to reach and harm his victim. It is good enough that accused while in remand custody has attended Bible School and was baptized and that this court may wish to forgive him but forgiveness does not mean he should not be punished. Contrary to assertions that the mother and brother of deceased have no problem if he is released, the Victim Impact Statement indicates that they



have suffered severe psychological effects and view the incident that led to the loss of their kin as most inhuman incident they have ever seen.

5. They demanded for expedited justice and that maximum sentence should be meted out. This court is of the view that commensurate punishment for the offence committed by the accused person is 30 years to run from September 29, 2020.
6. Right of Appeal – 14 days explained.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 13<sup>TH</sup> DAY OF JUNE 2023**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of:-**

Ogwel - Court assistant

Mr. Ngiri Prosecutor for State

Ms. Mbaka Advocate hold brief for Ms. Ayieko Advocate for Accused

Accused – Present in person

**HON. LADY JUSTICE A. ONG'INJO J**

**JUNE 13, 2023**

