



**Republic v Thuo (Criminal Case 19 of 2018)
[2025] KEHC 14179 (KLR) (8 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14179 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE 19 OF 2018
CW MEOLI, J
OCTOBER 8, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MARGARET WAMBUI THUO ACCUSED

SENTENCE

1. The Accused herein, Margaret Wambui Thuo was charged with the offence of murder under Section 202 as read with Section 204 of the Penal Code.
2. At the close of the trial, judgement was delivered before Mutuku J on 17.1.2025. Pursuant to that judgment, the Accused was convicted on the lesser offence of manslaughter under Section 202 as read with Section 205 of the Penal Code. No previous records were tendered by the prosecution. The accused’s counsel in mitigation pointed out that the Accused has been in custody since 2018 and that she was remorseful. He urged the court to note that the offence committed within a love relationship between the Accused and deceased was not premeditated, and citing the positive presentence report urged the court to consider a non-custodial sentence.
3. Sentencing is a vital process in the administration of justice. Thus, clause 4.6.1 of the Sentencing Guidelines (2023) provides inter alia that the sentencing process is an integral part of the trial and is therefore subject to the fair hearing constitutional guarantees. The Supreme Court of India in the case of, Antony Pareira V State of Maharashtra (2 AIR 2012 SC 3802) held that that:

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done”



4. These views were reiterated by the Supreme Court of Kenya in *Francis Karioko Muruatetu & another v Republic* [2017] eKLR where it was held that although the death sentence provided for murder in the Penal Code remained lawful, the mandatory nature of the sentence was unconstitutional as it tended to take away the discretion of the court in sentencing. Directing that re-sentence hearings be conducted for affected convicts and prisoners, the court listed some mitigating factors applicable as follows;
 - (a) age of the offender
 - (b) being a first offender;
 - (c) whether the offender pleaded guilty;
 - (d) character and record of the offender;
 - (e) commission of the offence in response to gender-based violence;
 - (f) remorsefulness of the offender;
 - (g) the possibility of reform and social re-adaptation of the offender;
 - (h) any other factor that the Court considers relevant.
5. The Supreme Court was also quick to add the caveat that:
 - (72) We wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process".
6. Clause 1.3 of the Sentencing Guidelines (2023), identifies the objectives of sentencing as: -
 - a) Retribution: To punish the offender for his/her criminal conduct in a just manner. It serves to deter future crime. Victims and society might feel satisfied that the criminal justice system is functioning well when they learn that the offender has received an appropriate sentence for their crimes, which raises trust in the criminal justice system
 - b) Deterrence: To deter the offender from committing a similar offence or any other offence in future as well as to discourage the public from committing similar offences. Thus, it is divided into two components: individual and general deterrence. Individual deterrence is to dissuade the perpetrator with the objective to inflict a punishment severe enough to deter the offender from engaging in criminal activity. The convict is expected to be discouraged from committing crimes in the future as a result of the sentence. The society is the target of general deterrence. Other people are deterred from committing those offences by the punishment meted out to those who commit them.
 - c) Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person. It aims at changing the offenders and make it easier for them to reintegrate into society, through a variety of programs and treatments. It focusses on treating the root reasons of criminal behaviour, such as dependency, mental health conditions, or a lack of education. The objective is to give the offender the resources and assistance they need to upon release, become law-abiding citizens.



- d) Restorative justice: To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs. Any harm done to the victim may be compelled to be repaired or restored by the court. The goal is to put the victim back in his pre-crime status or position. The goal of restoration is to make up for any harm the perpetrator has caused the victim.
- e) Restitution deters crime by financially penalizing the offender. It is somewhat like a civil lawsuit damages judgement and occurs when the court directs the offender to compensate the victim for any injury. Restitution may be required in cases of financial loss, property damage, and, in rare cases, mental suffering. It may also take the form of a fine to help defray part of the expense of the criminal investigation and punishment.
- f) Community protection: To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.
- g) Denunciation: To clearly communicate the community's condemnation of the criminal conduct.
- h) Reconciliation: To mend the relationship between the offender, the victim and the community.
- i) Reintegration: To facilitate the re-entry of the offender into the society.
- j) Incapacitation's main purpose is to simply keep offenders outside of society so that everyone is safe from their potentially harmful actions. A person convicted of a crime should not be permitted to mingle with the general public if there is no assurance that they will not commit the same crime again. In certain civilizations, punishment takes the form of death sentence, or it may entail a sentence of life in jail without the chance of release.”

7. These guidelines apply to all criminal offences. The court has considered the above objectives of sentencing. The evidence on record shows that the accused was in a love relationship with the deceased. It is not clear why the Accused was so determined to visit the deceased on the day preceding the date of the offence after the deceased had informed her not to travel to his home.
8. While the Accused claims that on the night in question the couple drank alcohol, the offence was committed on the next morning allegedly after the deceased assaulted her. As the trial judge observed, it is difficult to see from the Accused's account of events, how a victim pinned down on a bed, could reach out to a table and pick a knife then stab the alleged assailant, twice. The two stab wounds to the chest of the deceased were deep, one of them penetrating his lung. There is no evidence that the Accused herself sustained any injury; she did not refer to any.
9. The matter is aggravated by the fact that upon stabbing the deceased, the Accused fled from the area on a boda boda and remained at large until 10.10.2018 when police traced and arrested her. The wounds inflicted were severe; he was left fighting for his life and eventually died while receiving treatment. The court takes a dim view of the senseless violence meted by the Accused on the deceased, and her subsequent conduct. Despite the positive matters raised in the pre-sentence report, the court is of the view that a non-custodial sentence is not appropriate here.



10. The Accused who was the only person present during the offence painted herself as a victim and appeared deflect her own responsibility. She cannot be allowed to escape the consequences of her extreme conduct. A custodial sentence will allow time for introspection and possibly reform, upon the Accused taking full responsibility for her actions that led to the loss of a young life.
11. In the circumstances, the court will impose a sentence of 15 years imprisonment with effect from 10.10.2018, the date when she was arrested. She has 14 days to lodge an appeal.

DELIVERED AND SIGNED IN OPEN COURT AT KAJIADO ON THIS 8TH DAY OF OCTOBER 2025.

C. MEOLI

JUDGE

In the presence of:

Mr Kilunda for the State

Ms Mageto h/b for Mr. Anam for the Accused

Accused: present

