



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mukanga (Criminal Case E350 of 2025)
[2025] KEMC 147 (KLR) (20 May 2025) (Sentence)**

Neutral citation: [2025] KEMC 147 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
CRIMINAL CASE E350 OF 2025**

**PA NDEGE, J
MAY 20, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOHN NJAU MUKANGA ACCUSED

SENTENCE

1. The accused person herein, John Njau Mukanga, has been convicted upon own guilty plea to both of the two counts facing him. Count I is for the offence of threatening to kill contrary to section 223(1) of the *Penal Code*. The particulars of the offence are that the accused on 11/02/2025 at Giachonge Village Githioro Location Nakuru North Sub county within Nakuru County without lawful excuse uttered the words “Nitakuua wewe” while armed with kitchen knife threatening to kill Jane Wambui Kamau Kiarie.
2. Count II is for the offence of creating disturbance in a manner likely to cause breach of peace contrary to section 95(1) (b) of the *Penal Code*. The particulars are that the accused on 11/02/2025 at Giachonge Village Githioro Location Nakuru North Sub county within Nakuru County created disturbance in a manner likely to cause breach of peace by threatening to kill Jane Wambui Kamau Kiarie while pointing a rungu.
3. In his mitigation, the accused person stated that he was a first offender. The pre-sentence report tendered before court by the probation officer stated that the accused person was remorseful for the offences and pleaded for leniency in sentencing. On the flip-side, the victim who is the mother of the accused together with her family urged the court to consider a custodial sentence for the accused stating that his incarceration has brought peace to the family. Additionally, they fear that their kin would reoffend due to environmental stressors and social pressures given that where the accused hails from there’s heavy use of drugs which in fact led him to drop out of school while he was in class six while still twelve years of age. They thus urged the court to grant strong deterrence measures. In the same



vein, the local administration noted that they had received numerous complaints from the family and community accusing him of being a nuisance to society since he would chase school children on the road and hurl insults to road users.

4. The Judiciary *Sentencing Policy Guidelines* underpins principles such as proportionality of the sentence to the offending behavior, equality, accountability, transparency and inclusiveness of the offender and victim in the sentencing process. In *James Munyua Ndugi v Republic* (Criminal Revision E225 of 2023), Nzioka J. in declining to review the sentence for the applicant who had been convicted on his own plea of guilty and sentenced to five years imprisonment for the offence of threatening to kill where without lawful excuse he threatened to cut Simon Kamau with a panga, noted that the applicant is not a first offender, he abuses drugs and has been a nuisance. Additionally, the learned judge noted that the community and family do not support a non-custodial order.
5. In count II regarding creating disturbance likely to cause a breach of peace, a sentence of 2 months imprisonment is enough punishment to balance the interests of the accused person and those of his family and community at large. In light of the above, I sentence the accused person to three years imprisonment for the offence of threatening to kill c/s 223(1) and two months for the offence of creating disturbance c/s 95(1)(b), both of the *Penal Code* as charged herein. Sentences to run concurrently.

14 days Right of Appeal explained

DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT THIS 20TH DAY OF MAY, 2025

ALOYCE-PETER-NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Court interpreter- Janet

Prosecution counsel- Macharia

Accused- Present

Victim- N/A

