



**Republic v Chebii (Criminal Case E016 of 2023)  
[2025] KEHC 15546 (KLR) (29 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 15546 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE E016 OF 2023  
RB NGETICH, J  
OCTOBER 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**WILSON KIPCHUMBA CHEBII ..... ACCUSED**

**SENTENCE**

1. The accused Wilson Kipchumba Chebii has been charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge were that, on 1<sup>st</sup> day of May 2022 at around 11.00hrs at Terrain Village, Kinyach sublocation in Baringo North subcounty within Baringo county, he murdered Wycliff Kemboi Simotwo.
2. The accused denied the charge and on 30<sup>th</sup> April 2025 this Honourable court found the accused guilty and convicted him of the offence of murder contrary to section 203 as read with 204 of the penal code. Upon the conviction, the prosecution informed the court that the accused be treated as a first offender. The court directed that a pre-sentence report to be filed before mitigation. The report was filed as directed.

**Pre-sentence Report**

3. From the report, the accused is aged 45 years old. He did not proceed to secondary school after sitting KCPE in the year 1997 due to lack of interest. He engaged in farming until the year 2001 when he opened a food kiosk at Arror trading Centre. While in his business he was employed as Kenya Police Reservist (NPR). Where served until the time of his arrest. He is married with 6 children. He is fairly stable economically compared to other community members.
4. From the report, the accused is not remorseful. He vehemently denies committing the offence. He said he has been convicted for an offence he never committed but feels for the family of the deceased.



5. The victim's mother and other family members are extremely bitter with the accused; they claim the accused did not only shoot the deceased but also took their animals. The mother stated that her blood pressure rises whenever she hears about the accused.
6. From the report, accused's family sent delegation to victim's family for reconciliation but were met with hostility; the victim's family have totally refused any reconciliatory meeting.
7. From the report, the accused is from Elgeyo Marakwet while the deceased is from Baringo county an area known for cattle rustling. The probation officer indicates that information received from a key informant is that the accused is highly feared and community members are awaiting the outcome of this case in order to take the next move and majority of people interviewed especially key leaders feared that if accused is rereleased on non-custodial sentence, it may spark fresh violence in the area considering peace has now been restored and for this reason, they are totally opposed to non-custodial sentence. From the report, the victim's family have also vowed to retaliate if accused is released and the accused's family have vowed to retaliate if sentenced to custody and efforts by the area chiefs from the two communities to bring them together have been unsuccessful and the hostility has spilt from the families to the community making the environment volatile and risky to have accused released on non-custodial sentence.

### **Mitigation**

8. Prosecution counsel Ms. Kosgei urged this court to look at presentence report. She submitted that a life was lost and the accuse is not remorseful and there has never been reconciliation and since there is no reconciliation, she prayed for mandatory death sentence.
9. The defence counsel Mr. Buluma mitigated on behalf of accused and prayed for lenient sentence. He prayed for non-custodial sentence. on prosecution's proposal for mandatory death sentence, he submitted that we have come a long way in the legal jurisprudence regarding death sentence and submitted that this court has discretion to impose non-custodial sentence because there are deserving cases and urged this court to find this case as one such case.
10. Counsel further submitted that it is not in doubt that the accused is a serving National Police Reservist a person who has dedicated to serve humanity at high risk. Further that he is a family man and the circumstances under which the offence occurred if taken into account which is acrimony between the communities rather than individuals which displayed in the hearing and prayed for non-custodial sentence. He also urged this court to take into consideration period accused served in remand.
11. On pre-sentence report, he submitted that it favors accused though prosecution counsel says it is negative and one of the issues raised by the probation officer is that the accused is economically stable and his family is also economically stable and it is unlikely that he would engage in any criminal activity if granted non-custodial sentence. That the report confirm that accused and his family are well respected in the community where they command various leadership positions. He submits that it is not correct that accused has previous criminal record as the other matter is still pending in court. He also submitted that the report quoted so many other sources but urged this court to consider accused as an individual. Finally, he submitted that the accused regrets the loss of life and he cannot be expected to enter a plea of guilty at this stage of trial.

### **Determination**

12. Under section 204 of the Penal Code, the sentence prescribed for the offence of murder is death. However, the Supreme Court in Francis Karioko Muruatetu & Another v Republic [2017] eKLR



- declared the mandatory nature of the death penalty unconstitutional, holding that sentencing is a discretionary judicial function. Courts are now enjoined to consider the peculiar circumstances of each case, the offender's personal situation, and the objectives of sentencing. The court therefore has discretion to impose death sentence or any other lesser sentence depending on the circumstances of each case.
13. The objectives of sentencing as set out in the Sentencing Policy Guidelines (2016) include retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation. The appropriate sentence must therefore reflect a balance between the rights of the offender, the interests of the victim's family, and the broader interests of justice.
  14. In this case, the accused is a first offender aged 45 years, married with six children, and a former National Police Reservist who served the community at personal risk. These are personal mitigating factors deserving consideration. His counsel also submitted that the incident arose within a background of inter-community hostility, rather than personal enmity.
  15. On the other hand, the pre-sentence report presents aggravating circumstances. The accused maintains his innocence despite conviction, indicating limited remorse. The report also raises genuine community safety concerns, as both the victim's and accused's families have taken hostile positions with threats of retaliatory violence depending on the outcome of this case. Key informants and local leaders cautioned that a non-custodial sentence could destabilize the fragile peace currently prevailing in the area.
  16. I also note that the accused, being a police reservist, was a trained and trusted agent of peace and law enforcement. His involvement in the fatal shooting, therefore, amounts to a serious breach of that public trust. The death of the deceased has caused lasting pain and trauma to the victim's family, who have rejected reconciliation efforts.
  17. The court in its judgment found that the prosecution proved malice aforethought as defined under section 206 of the Penal Code. The killing was therefore intentional and unlawful, which aggravates the seriousness of the offence. Nevertheless, sentencing remains an individualized process. The court takes into account that the act occurred within a volatile context of communal conflict rather than for personal gain or premeditated cruelty. I also take note of the fact that the accused has also been in custody for a considerable period awaiting the conclusion of this case.
  18. In weighing these factors, I am of the view that the accused deserves a deterrent sentence to vindicate the sanctity of life, deter similar conduct, and reflect the gravity of the offence. However, the death penalty or life imprisonment would, in the circumstances of this case, be disproportionate. A long-term imprisonment will meet the objectives of punishment, deterrence, rehabilitation, and protection of the community.
  19. In the totality of circumstances, and guided by the principles in *Muruatetu (supra)*, *William Okungu Kittiny v Republic* [2018] eKLR, and *Republic v Ruth Wanjiku Kamande* [2018] eKLR, I am inclined to impose a custodial sentence of thirty (30) years imprisonment.
  20. Final Orders:-
    - a. The accused, Wilson Kipchumba Chebii, is hereby sentenced to thirty (30) years imprisonment for the offence of murder contrary to section 203 as read with section 204 of the Penal Code.
    - b. The Period served in remand to be computed in the sentence above.
    - c. Right of appeal within 14 days from the date of this ruling.



**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 29<sup>TH</sup> DAY OF OCTOBER, 2025.**

.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:-

Ms. Bartilol for State.

Mr. Buluma for accused.

Accused present.

CA, Elvis/Momanyi.

