



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Adipo (Criminal Case E023 of 2024)
[2025] KEHC 15133 (KLR) (28 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15133 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIIYA
CRIMINAL CASE E023 OF 2024
DK KEMEL, J
OCTOBER 28, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

DANIEL OUMA ADIPO ACCUSED

RULING

1. The accused herein Daniel Ouma Adipo has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the offence are that on the 24th day of April, 2024 at Simenya village, Rangala location within Ugunja Sub-County in Siaya County, he murdered Nereah Auma Arony.
2. Vide the judgment of this court dated 19/9/2025, the accused was found guilty for the offence of murder under Section 203 as read with Section 204 of the Penal Code and were convicted therefor accordingly.
3. The sentencing hearing proceeded on 14/10/2025. M/s. Akinyi for the defence submitted regarding the accused *inter alia*; that the accused pleads for leniency in sentencing; that the accused is a first offender and sole bread winner for his young family; that accused has been a law abiding citizen and still maintains his innocence; that a non-custodial sentence be consider in order to tamper the matter with mercy and justice; according to counsel, the issue of sentencing should be rehabilitative rather than retributive.
4. Mr. Soita for the prosecution submitted *inter alia*; that the deceased died a painful death as she was hit severally on the head; that the deceased did nothing wrong to the accused person to warrant the attack; that a life was lost; that even if the accused is a first offender, his actions merits appropriate sentence so that the victims family can feel that justice has been done and that the public expects nothing less than that; that the accused requires rehabilitation before being re-integrated into the society.



5. This court called for a pre-sentence reports by the Probation department. The same is dated 8/10/2025. That the accused maintains his innocence and contends that he is being fixed due to land dispute between his father and the victims brother; that the family of the accused maintains that he has been in good behavior and that it was his first time to be inflict with the law; that the family of the victim is still bitter as the children of the deceased are now stranded due to the absence of the bread winner; that the victims' family are opposed for non-custodial sentence; that the community indicates that there had been a land dispute between the family of the offender and the victim and that the community have left the matter to the discretion of the court; that the area administrators indicate that the accused has been a person of good behavior until the present case; that the probation officer is of the view of the court should hand the appropriate sentence.
6. I have given due consideration to the mitigation submissions of learned counsels and the pre-sentence report. Under Section 204 of the *Penal Code*, the maximum sentence for murder is death but owing to the Supreme Court's decision in *Francis Karioko Muruatetu & Ano. Vs, Republic* [2017] eKLR, held that the mandatory sentence of death was unconstitutional as it denied the courts the opportunity to receive mitigation from offenders before imposing the appropriate sentences. It was therefore held that the courts were now free to receive mitigation from offenders before imposing the appropriate sentence but the courts could as well impose such sentence if the circumstances warrant it.
7. As regards the sentence to be imposed, the court of Appeal in the case of *Charo Ngumbao Gugudu Vs. R* [2011] eKLR held as follows:

“ Further, the law is that sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender and that it is not proper exercise for the court to fail to look at the facts and circumstances of the case in their entirety before settling for any given sentence. See *Ambani Vs. R* [1990] KLR”
8. It is noted that the circumstances leading to the death of the deceased are tragic in that the deceased was walking peacefully to her home in company of her sister when the accused herein crept from behind and hit her with a piece of wood on the head killing her instantly. That the deceased did not deserve to die in the manner that she did. Even though, there was a land dispute between the family of the victim and the accused, the same did not warrant the accused to take the law into his hands and kill the deceased. Indeed, there were other ways of resolving the land dispute which involved the family of the accused and the brother of the deceased. It is instructive that such cases have always been dealt with by the Area Clan Elder or Provincial administration or even the courts. The accused herein had those options to resort to over the said land dispute but instead decided to kill the deceased. Of course, that could not resolve the land dispute. The deceased is reported to have been a single woman with three children and a sole breadwinner for her family which has now been rendered destitute. The children of the victim have now been rendered orphans thanks the accused herein who has snuffed out the life of their benefactor. It is clear that the accused person has some ungovernable anger and that he requires custodial rehabilitation before he can be re-integrated back to the society. In as much as the pre-sentence report indicates that the local community do not a problem with the accused, the fact that he could go to great lengths to kill the deceased who was his cousin just because there was a long-standing land dispute between the accused and a brother of the deceased leaves no doubt that the accused is a person who cannot be trusted. His conduct in ending the life of his cousin was not warranted since there are several avenues of redress. There seems to be an indication that he has an inherent problem fueled by his animosity towards the deceased's family over the land dispute and hence he requires comprehensive custodial rehabilitation before being allowed to get back to the society. Even though the accused is indicated to be a young man with a full life ahead of him, the custodial rehabilitation



is necessary in order to reform him into a better individual before being re-integrated in the society. The autopsy report produced by the pathologist (PW4) indicated that the deceased suffered a severe intracerebral bleeding in the occipital of the head thereby causing severe brain injury secondary to blunt trauma to the head. It is noted that the deceased died instantly as a result of a single blow to the head by use of a huge piece of wood. The injuries therefore did not give the deceased any chance of survival. It is noted that the accused managed to post bail and hence the provisions of Section 333 (2) of the Criminal Procedure Code regarding the period spent in custody does not apply. I find that a sentence of twenty (20) years imprisonment is appropriate in the circumstance.

9. In the result, I order the accused herein Daniel Ouma Adipo to serve a custodial sentence of twenty (20) years' imprisonment.

Orders accordingly.

DATED AND DELIVERED AT SIAYA THIS 28TH DAY OF OCTOBER 2025.

D. KEMEI

JUDGE

In the presence of:

Daniel Ouma Adipo.....Accused

M/s Achieng.....for Accused

Soita.....for Prosecution

Kimaiyo/Maureen.....Court Assistant

