



**Republic v King’ola (Criminal Case E005 of 2023)
[2025] KEHC 16132 (KLR) (7 November 2025) (Sentence)**

Neutral citation: [2025] KEHC 16132 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL CASE E005 OF 2023
TM MATHEKA, J
NOVEMBER 7, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MICHEAL WAMBUA KING’OLA ACCUSED

SENTENCE

1. Michael King’ola Wambua was charged with the murder of his 70 years old mother. The particulars were that on 31/3/2023 at Kuongwani village Mukaa Subcounty , Makueni County he murdered Annah Ndoti King’ola.
2. After a full trial the accused was found guilty of the charge and convicted accordingly.
3. The issue for determination is what the appropriate sentence is.
4. The court sought a pre-sentence report - to give a social inquiry report on the offender accused, his family, his community, and if appropriate to recommend a non-custodial sentence and the interventions that would be applied.
5. In mitigation his advocate Mr. Kioko made refence to the the submitted that the accused regrets the circumstances that led to the offence. He is remorseful for the factors that led to the murder before court. When it happened, he was not okay – he had been drinking all through. He has gone through counseling. He is now a changed man. He is a father of 3 children – last one is breast feeding , two are in form two a boy and a girl. When he was arrested the boy dropped out, due to lack of school fees. His wife is a cancer survivor. She continues with her medication; she does manual job. He is breadwinner. That after death of his mother, he sought to reconcile with family, that they even sought plea bargain agreement. That he is ready to be reintegrated back in community He prays for non-custodial sentence on terms the court will deem fit. That after arrest his family has suffered – brothers have threatened to evict the family from the home.



6. The Accused when given the opportunity himself in Kiswahili he stated that when he was arrested in 2024 the house was broken into his bed , mattresses, blanket, were stolen from the house - the suspects were seen and his wife went and found the things at the home of suspect. That she reported and got OB No. 156-; that the police asked for money to take action. His prayer was that that person be arrested and charged or compelled to return those items.
7. He stated that further that his brother, James Muema King'ola, came and cut down his two bananas and when he was asked, – he threatened to throw them out, that his wife was also threatened and told that she had no share in the home. He urged the court to follow up as his wife was told not to plough the land. He concluded by saying ‘That is all. I do know how long I will be in prison. ‘
8. Because of what he said about his children I requested for a Children Officer’s Report. The report presented a picture very different from what the accused person stated. The children are in school, and they are well taken care of. His wife is coping well
9. I have considered the social inquiry report on the accused person.
10. I have also considered the kind of injuries that were inflicted on the deceased by her own son -Bruises on fore head
Bruises on left maxilla
Deep cut wounds associated with open fractures of the skull onOccipital region right temporal regionThere were open fractures of the head - with massive subdural hematoma.
11. The accused person’s defence was that this was accidental - a defence this court found incredible taking all the circumstances of the offence together.
12. It is important to take note that the Sentencing Policy Guidelines (2023) require the court to balance e both mitigating and aggravating factors in arriving at a sentence. The court is also required to consider the imperatives of sentencing – deterrence, punishment, retribution , rehabilitation - the interests of the accused, the public interest and those of the victim
13. I note from the record that when he was examined by the Psychiatrist the report dated 11/4/2023 states that the accused person “had mental illness ranging from depression to oppositional defiance disorder. He is currently stable though at the time of the incident he was intoxicated. He is competent to take plea and stand trial but requires to continue with medication”
14. A bit of reading revealed that Oppositional defiant disorder is defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th ed., as a recurrent pattern of developmentally inappropriate, negativistic, defiant, and disobedient behavior toward authority figures. This disorder mostly manifests in children but some grow into adulthood with it.
15. It is noteworthy that the issue of his mental illness never came up again during the trial - and there were no reports that he may have had a break down/relapse while in custody - but again – from the pre-sentence report - there is sufficient evidence of this disorder – although the family states that he grew up without any known physical or mental health conditions.
16. However, the family - describes him as irresponsible, violent, full of anger – and would assault his wife and his mother, chase them out of the home, forcing them to sleep in the bushes. This violence would be extended to his children, his younger siblings and nephews.
17. Evidently the immediate family are not ready /willing to receive him back and that explains the collapse of the attempt at plea bargaining agreement.



18. All these circumstance give a pointer towards the sentence - and the lack of remorse is one of them.
19. The family is not aware of his condition, neither was the Probation & Aftercare Services Officer . The offender too appears not to be aware of the same.
20. The court must remain alive to the fact that he still needs treatment.
21. What is clear is that there was no defence of intoxication, or mental illness - this court merely observed that this was a factual issue placed before the court at the time he took plea.
22. What stands out is that the accused person hit his mother on the head with such violence that he broke her skull - causing her severe head injury leading to her death.
23. Looking at similar cases – the accused person is sentence to 20 years’ imprisonment with effect from 12/4/2023.
24. I always say that a prison sentence will end and the convict will go home. Part of the rehabilitation program must be to ensure that he goes home better than he left. The Prison authorities who hold the correctional mandate have the power to make it happen. They must however know when to refer a prisoner for therapy , other treatment. In that regard The Prison Authorities supported by PACS are directed to ensure that he gets the mental health assessment and treatment that he needs so that he can be aware of the same and undergo the requisite therapy.
25. This order be extracted by the deputy Registrar to accompany the committal warrant.
26. Orders accordingly

DATED, SIGNED AND DELIVERED VIRTUALLY ON 7TH NOVEMBER 2025.

MUMBUA T MATHEKA

JUDGE

CA Chrispol

Accused

Mr. Kioko for accused

Mr. Kazungu for the state

