



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Nzyimi (Criminal Case 20 of 2020)
[2025] KEHC 17264 (KLR) (26 November 2025) (Sentence)**

Neutral citation: [2025] KEHC 17264 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL CASE 20 OF 2020
TM MATHEKA, J
NOVEMBER 26, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

SIMON MUTUKU NZYIMI ACCUSED

SENTENCE

1. On 26/9/2025 Simon Mutuku Nzyimi was found guilty of the murder of his father Benson Nzyimi Tom. He had been charged with committing the offence on 20/6/2020 at Ikalyoni Village, Ikalyoni Sublocation, Kilungu Subcounty.
2. Upon conviction the court sought a pre-sentence report from the Probation & Aftercare Services.
3. Through his counsel he mitigated that he was remorseful for the crime he had committed. That he had communicated with the family who had forgiven him. That he was 31 years old - and prior to committal of the offence he had battled mental illness, that he was studying for Bachelor of Commerce at Multi Media University. That he was a good student, member of the community and had been receiving treatment, that the medical reports had shown that he had made great progress and had great potential to be an outstanding member of the community. The court was urged to consider the period he had been in custody since 20th June 2020; that he had related well with the fellow remandees and prison officers .
4. Coming to the Pre- Sentence Report : It was stated in the report that some months prior to the committal of this offence he had attempted to harm his parents but they chose not to report. The report indicates a history of mental illness in the family including a maternal uncle who killed his own brother's wife and her three children and who was in turn killed by a mob. The family expressed readiness to reintegrate him – but requested a year to prepare for his return home.



5. Regarding his mental health problem, he was diagnosed with schizoaffective disorder. He has been to a rehabilitation center and attended hospital in Kilungu and Machakos for the mental illness, and while in custody has undergone treatment. The probation officer's report observes he is first-time offender who acknowledges that his actions stemmed from a poor management of anger and conflict resolution, and who sincerely seeks forgiveness and leniency from the Court. That he is in the early stages of his adult life and has yet to determine his future direction. That he possesses the potential to become a constructive member of society if granted another chance, particularly through a non-custodial approach such as Probation Order. However, that his immediate family raised concerns regarding his immediate reintegration, as they are not ready to receive him now, seeking one year to prepare for his return. This, according to the officer, may hinder the effectiveness of his supervision and rehabilitation plan.
6. I have carefully considered the accused mitigation, the Pre-sentence Report, and the offender's medical history.
7. What sentence is suitable in this case? The circumstances of the offender, of the victim and the public interest must be considered as guided by the Sentencing Policy Guidelines.
8. The offender is a first offender. He is remorseful. His family are willing to have him back, they acknowledge that he had some challenges but they are willing to get him back home.
9. The PSR indicates that the family needs at least 1 year to prepare for his release of the offender to his home. The officer recommends a non-custodial sentence while taking into account the family request. The question is, is there a halfway house where the offender can be accommodated pending his going home? That would be the ideal situation, where even his mental health issues would be addressed.
10. However, Mr. Ndung'u PACs appeared in court and informed the court that a discussion was held with the family on this issue. They were informed that the Probation Hostel could not accommodate the offender due to his mental health requirements. They decided to find a suitable institution on their own where the offender could be admitted upon release for proper mental health care. For this they asked for two weeks.
11. I spoke to the offender and he expressed his desire to go back to school
12. The family is ready to reintegrate the accused person.
13. I acknowledge the evidence before me that the offender has been diagnosed with schizoaffective disorder.
14. I have considered the period he has spent in remand custody which is 5 years. I consider that to be sufficient time served in custody. Taking that into account , plus the family and community attitude, towards him he is sentenced to Probation Supervision for three years to enable family reintegration and the further treatment that he needs.

DATED, SIGNED AND DELIVERED VIRTUALLY ON 26TH NOVEMBER 2025

MUMBUA T MATHEKA

JUDGE

CA Chrispol

Counsel for the Offender

Kazungu for State



Offender Present

