



**Republic v John (Criminal Case E017 of 2021)
[2025] KEHC 17351 (KLR) (19 November 2025) (Sentence)**

Neutral citation: [2025] KEHC 17351 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE E017 OF 2021
CW MEOLI, J
NOVEMBER 19, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MOSON MURINGE JOHN ACCUSED

SENTENCE

1. Moson Muringe John, the Accused herein was treated as a first offender upon conviction for the offence of Murder under Section 203 as read with Section 204 of the Penal Code following a full trial.
2. Sentencing is a vital process in the administration of justice. Thus, clause 4.6.1 of the Sentencing Guidelines (2023) provides inter alia that the sentencing process is an integral part of the trial and is therefore subject to the fair hearing constitutional guarantees.
3. The Supreme Court of India in the case of, Antony Pareira V State of Maharashtra (2 AIR 2012 SC 3802) held that that:

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done”.

4. These views were reiterated by the Supreme Court of Kenya in Francis Karioko Muruatetu & Another v Republic [2017] eKLR where it was held that although the death sentence provided for murder in the Penal Code remained lawful, the mandatory nature of the sentence was unconstitutional as it tended to take away the discretion of the court in sentencing. Directing that re-sentence hearings be conducted for affected convicts and prisoners; the court listed some mitigating factors applicable as follows;

- (a) age of the offender



- (b) being a first offender;
 - (c) whether the offender pleaded guilty;
 - (d) character and record of the offender;
 - (e) commission of the offence in response to gender-based violence;
 - (f) remorsefulness of the offender;
 - (g) the possibility of reform and social re-adaptation of the offender;
 - (h) any other factor that the Court considers relevant.
5. The Supreme Court was also quick to add the caveat that:
- (72) We wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process".
6. Clause 1.3 of the Sentencing Guidelines (2023), identifies the objectives of sentencing as: -
- “a) Retribution: To punish the offender for his/her criminal conduct in a just manner. It serves to deter future crime. Victims and society might feel satisfied that the criminal justice system is functioning well when they learn that the offender has received an appropriate sentence for their crimes, which raises trust in the criminal justice system
 - b) Deterrence: To deter the offender from committing a similar offence or any other offence in future as well as to discourage the public from committing similar offences. Thus, it is divided into two components: individual and general deterrence. Individual deterrence is to dissuade the perpetrator with the objective to inflict a punishment severe enough to deter the offender from engaging in criminal activity. The convict is expected to be discouraged from committing crimes in the future as a result of the sentence. The society is the target of general deterrence. Other people are deterred from committing those offences by the punishment meted out to those who commit them.
 - c) Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person. It aims at changing the offenders and make it easier for them to reintegrate into society, through a variety of programs and treatments. It focusses on treating the root reasons of criminal behaviour, such as dependency, mental health conditions, or a lack of education. The objective is to give the offender the resources and assistance they need to upon release, become law-abiding citizens.
 - d) Restorative justice: To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs. Any harm done to the victim may be compelled to be repaired or restored by the court. The goal is to put the victim back in his pre-crime status or position. The goal of restoration is to make up for any harm the perpetrator has caused the victim.



- e) Restitution deters crime by financially penalizing the offender. It is somewhat like a civil lawsuit damages judgement and occurs when the court directs the offender to compensate the victim for any injury. Restitution may be required in cases of financial loss, property damage, and, in rare cases, mental suffering. It may also take the form of a fine to help defray part of the expense of the criminal investigation and punishment.
 - f) Community protection: To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.
 - g) Denunciation: To clearly communicate the community's condemnation of the criminal conduct.
 - h) Reconciliation: To mend the relationship between the offender, the victim and the community.
 - i) Reintegration: To facilitate the re-entry of the offender into the society.
 - j) Incapacitation's main purpose is to simply keep offenders outside of society so that everyone is safe from their potentially harmful actions. A person convicted of a crime should not be permitted to mingle with the general public if there is no assurance that they will not commit the same crime again. In certain civilizations, punishment takes the form of death sentence, or it may entail a sentence of life in jail without the chance of release.”
7. These guidelines apply to all criminal offences. I have considered the objectives of sentencing above. And also, the Accused's mitigation and pre-sentence report that appears favourable. Although there are several positive factors in the Accused's favour, the court cannot lose sight of the circumstances of the offence.
 8. The Accused together with others took the law in their hands and viciously assaulted the deceased who was apparently suffering from a mental health illness at the time. In an act of sheer sadism, the Accused went a step further and doused the victim with accelerant before setting him a blaze. The deceased sustained over 80% burns from which he died. There can be no justification for this kind of brutality against an unarmed and evidently sick man.
 9. It is noted that the family of the Accused have approached the deceased's family by way of seeking forgiveness and reconciliation. However, no compensation had been paid. The court also noted that the Accused person from his interview with the Probation Officer is yet to accept responsibility for his actions. He will need to introspect and take responsibility if he is to start the journey of reform. Despite the favourable pre-sentence report and the Accused's age, the Court noting his attitude disclosed therein to the offence involving wanton violence by the Accused and others against an alleged suspected thief, a common occurrence where members of the public lynch suspects, calls for denunciation, and a deterrent sentence.
 10. Accordingly, the Accused is sentenced to serve 20 years imprisonment. The period of his incarceration amounting to 40 (forty) days between his arrest on 2.08.2021 and release on bond on 22.09.2021 to be included in the sentence. He has 14 days to file an appeal.

DELIVERED AND SIGNED AT KAJIADO ON THIS 19TH DAY OF NOVEMBER 2025.



C.MEOLI

JUDGE

In the presence of:

For the State: Mr. Kilunda

For the Accused: Mr. Kiama

Applicant: Present

C/A: Lepatei

