



**Republic v Kariuki (Criminal Case E002 of 2025)
[2025] KEHC 18573 (KLR) (Crim) (17 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18573 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CRIMINAL
CRIMINAL CASE E002 OF 2025
KW KIARIE, J
DECEMBER 17, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

GEORGE WAWERU KARIUKI ACCUSED

JUDGMENT

1. George Waweru Kariuki is charged with murder contrary to section 203, as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the 6th day of June 2024, at Monoru sub-location, Kipipiri Sub-County within Nyandarua County, they murdered Moses Ojiambo Okumu.
3. On the morning of the 7th day of June 2024, the deceased was not found at his place of work by 8 a.m. After failing to trace him, the matter was reported to the police. His body was retrieved from a well, and some items which had been stolen from his place of work were recovered in the house of the accused. This therefore linked him to the offence of murder of the deceased.
4. The accused, in his defence, contended that at the time of the offence, he was away in Narok. He left his Gilgil home on the 5th day of June 2024. He was arrested while in Narok on the 7th day of June 2025.
5. The issues to be determined are:
 - a. Whether the accused has been connected to the offence;
 - b. Whether the prosecution's evidence displaced the alibi defence of the accused or not; and
 - c. Whether the offence of murder was proved against any or all the accused.



6. Josephat Gitahi Gichuhi (PW2) testified that he was constructing a house for Hellen Klauz. Moses Okumu, the late, worked as a watchman at the site. On June 8, 2024, he arrived at the site at 8 a.m. but did not find the deceased there. He attempted to contact him, but was unable to reach him. He then reported the absence to Catherine Wanjiku Muthee (PW1), the project manager.
7. While he was still searching for the deceased, he came across the accused, his mother, and a girl weeding for the deceased's maize crop. Since he knew that the accused and the deceased were friends, he asked him if he had seen the deceased. The accused replied that he had not seen him that morning.
8. After PW2 failed to find the deceased, he and PW1 inspected the house where the deceased lived. PW2 noticed objects that appeared out of place. They then forced open the door and discovered numerous site materials missing. Some footprints led them to a borehole near the accused's house.
9. On the 8th day of June 2024, while in the company of a police officer, they enquired about the whereabouts of the accused. His mother said that he left the previous day. Since the accused's house was locked, police forced the door open, and many items stolen from the site where the deceased lived were recovered. PC Peter Kung'u (PW4) gave similar evidence of recovery.
10. The body of the deceased was retrieved from the borehole where the footprints earlier had led PW1 and PW2. This was the gist of the evidence of PW1, PC Peter Kung'u (PW4) and PC Teddy Mudanya (PW5).
11. George Waweru Kariuki, the accused, contended that he left for Narok on the 5th day of June 2024. His mother, Alice Wanjiku Kariuki (PW6), testified that the accused was not at home on the 6th day of June 2024.
12. When an accused raises an alibi defence, they do not assume any burden to prove that it is the truth. This was stated in the case of *Kiarie vs Republic* [1984] KLR, where the Court of Appeal held:

An alibi raises a specific defence and an accused person who puts forward an alibi as an answer to a charge does not in law thereby assume any burden of proving that answer and it is sufficient if an alibi introduces into the mind of a court a doubt that is not unreasonable.
13. In the instant case, Josephat Gitahi Gichuhi (PW2) was categorical that he met the accused on the 7th day of June 2024 and enquired whether the accused was aware of the deceased's whereabouts. This evidence went unchallenged. There is, therefore, overwhelming evidence by the prosecution that displaces the alibi defence of the accused.
14. I, therefore, find that the prosecution has proved to the required standards that the accused caused the death of the deceased.
 1. To convict for murder based on the evidence on record, the prosecution must prove the existence of malice aforethought. In *Black's Law Dictionary*, 10th Edition, malice aforethought is defined as:

The requisite mental state for common-law murder, encompassing any one of the following (1) the intent to kill (2) the intent to inflict grievous bodily harm (3) extremely reckless difference to the value of human life (the so-called "abandoned and malignant heart"), or (4) the intent to commit a dangerous felony (which leads to culpability under the felony-murder rule).



16. Section 206 of the Penal Code gives instances when malice aforethought may be proved. It provides:

Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—

- (a) an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;
- (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;
- (c) an intent to commit a felony;
- (d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

17. Dr Titus Ngulungu (PW3) performed a post-mortem on the body of the deceased. The body had injuries on the head and on the back of both hands. His opinion was that the cause of death was asphyxia due to immersion in a freshwater mass, in keeping with drowning.

18. The evidence by the prosecution has established the offence of murder to the required standards against the accused. Accordingly, he is convicted of this offence.

DELIVERED AND SIGNED AT NYANDARUA, THIS 17TH DAY OF DECEMBER 2025

KIARIE WAWERU KIARIE

JUDGE

