

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION

CRIMINAL CASE NO. 76 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

BETH ROSE KARONA MIANO *alias* MUTHONIACCUSED

SENTENCE

1. The accused, acting in concert with others not before the court, murdered *David Ngugi Mwaura*.
2. The offence is a grave felony that attracts the death penalty. However, following the Supreme Court decision in ***Francis Karioko Muruatetu & another v Republic***, Consolidated Petitions Nos. 15 & 16 of 2015 [2017] eKLR, the *mandatory* nature of the death sentence as provided for under Section 204 of the **Penal Code** was declared unconstitutional. This did not outlaw the death penalty, but it left the court with discretion to impose a lighter sentence.
3. The circumstances surrounding the offence are detailed in the judgment. In summary, the accused either alone; or, jointly with others not before the court, killed the deceased. They then stage-managed the scene to look like the deceased had committed suicide by hanging.

4. I have taken into account the mitigation tendered by her counsel.

The accused is a first offender and now aged 49. She is a mother of five adult children aged between 18 and 27. The accused parted ways with her husband years ago. She has been in custody since the year 2019 and seeks forgiveness for her actions. In a synopsis, it is a plea for mercy.

5. I have also considered the *pre-sentencing report* dated 12th September 2025 under the hand of *Ms. Esther Mwalili*, Probation Officer, Nairobi. She does *not* recommend a non-custodial sentence.

6. The views of the victim's family are well captured in the social report. The deceased was a 44-year-old mason doing casual jobs in Nairobi. His parents are peasant farmers on a small piece of land in Murang'a. The family is as "*yet to get closure [from] the horrifying and unforgettable image of his body hanging from a pub's roof-top*". They concede that the deceased was a drunkard but that did not warrant such a cruel death.

7. Sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by the *nature and gravity of crime*. Justice in this case calls for a custodial sentence. I

sentence the accused to *fifteen (15) years* imprisonment. In accordance with section 333 (2) of the **Criminal Procedure Code**, the sentence shall run from 10th October 2019, the date when she was first arrested and placed in custody.

8. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the proceedings, judgment and sentence shall be supplied to her immediately.

It is so ordered.

DATED, SIGNED and **DELIVERED** this 11th day of December 2025.

KANYI KIMONDO
JUDGE

Judgment read virtually on *Microsoft Teams* in the presence of: -

The accused.

Ms. M. Kigira for the Republic instructed by the office of the Director of Public prosecutions.

Mr. E. Ombuna, Court Assistant.