



**Republic v Kemei (Criminal Case 36 of 2023)
[2025] KEHC 18141 (KLR) (4 December 2025) (Sentence)**

Neutral citation: [2025] KEHC 18141 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE 36 OF 2023
RB NGETICH, J
DECEMBER 4, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ANTHONY KIMUTAI KEMEI ACCUSED

SENTENCE

1. The accused person, Anthony Kimutai Kemei was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. Particulars are that on the 30th day of March 2015 at Chetililik in Koibatek Sub-County within Baringo County, the accused murdered Gladys Cheronno Kimeli.
2. After a full trial, this Court on 16th October 2025 found the accused guilty and convicted him as charged.
3. Upon conviction, the prosecution counsel informed court that the accused was a first offender. I called for presentence report before mitigation which was filed on 17th November 2025.

Pre-sentence Report

4. From the report, the accused is aged 32 years and at the time of his arrest, he was employed as a lorry driver to transport fuel from Nakuru depot to Baringo, Bomet and other neighboring towns. He is married with 2 children and another child from a second women who is living in her home with the child.
5. The accused denies the offence but says the victim was his girlfriend. He does not express remorse for the offence.



6. The victim's father is pained by the loss of her daughter who was doing hair dressing court in college. He stated that the victim's family have not approached them to express sympathy or to initiate reconciliation.
7. The local administrator said the accused had not been involve din criminal activities prior to the offence and confirmed that accused's family have not reconciled with complainant's family

Mitigation

8. At mitigation stage, Mr.Ogola joined Mr.Nyagaka on mitigating on behalf of the accused.Mr.Ogola submitted that the accused is remorseful; that he is married with a young family and is the sole bread winner. He further submitted that the accused sent apology to the family of the victim. Counsel prayed for a lenient sentence preferably non-custodial sentence taking into consideration that he is the only hope of the family. Mr. Nyagaka prayed for a lenient sentence preferably non-custodial sentence and said that he had talked to the family.

Determination

9. The accused was convicted of the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. Although Section 204 prescribes the death sentence, the Supreme Court in Francis Karioko Muruatetu & Another v Republic (Muruatetu I & II) clarified that the mandatory nature of the death penalty is unconstitutional, and that courts retain discretion to impose an appropriate sentence based on the circumstances of each case. The sentencing court is therefore guided by judicial discretion, the Sentencing Policy Guidelines (2023), proportionality, and the objectives of sentencing.
10. In determining an appropriate sentence, I have considered the overall objectives of sentencing being retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation. The court must also balance the rights of the convicted person with the interests of the victim's family and the broader public interest.
11. I have considered the presentence report filed on 17th November, 2025. The accused is 32 years old, a lorry driver by trade, married with young children, and was a first offender before this incident. These are relevant mitigating factors. However, the report shows that the accused continues to deny responsibility and does not demonstrate genuine remorse. He merely states that the deceased was his girlfriend, and there is no indication of personal accountability for the unlawful taking of her life.
12. The victim impact statement from the deceased's father reflects deep emotional pain and continuing trauma resulting from the loss of a daughter who was pursuing a hairdressing course in college. The family notes that the accused or his family have never approached them to express sympathy, initiate reconciliation, or demonstrate remorse. The community and local administration confirm the absence of meaningful reconciliation efforts.
13. The defence submitted that the accused is remorseful and sent an apology to the family. However, this is inconsistent with the presentence report, which captures a denial of responsibility. The mitigation therefore carries limited weight. As stated in cases such as Boniface Mwaura –v- Republic and Joseph Kaberia Kahinga & Others v Attorney General, remorse must be genuine and not merely asserted at the point of sentencing.
14. In assessing culpability, I have considered the seriousness and gravity of the offence. The loss of a young woman's life in circumstances that the court found to constitute murder is a grave and irreversible harm. There is no evidence of provocation or diminished responsibility. Nothing in the record suggests low culpability or circumstances that would significantly reduce moral blameworthiness.



15. Aggravating factors include:
- a. the seriousness of the offence and the unlawful taking of life;
 - b. the absence of remorse or acceptance of responsibility.
 - c. the lack of reconciliation or restorative efforts despite the lapse of several years;
 - d. the continuing emotional devastation suffered by the victim's family.
16. Mitigating considerations include the accused's status as a first offender, his young family, his employment history, and the period spent in custody during trial. These factors, however, must be weighed against the need for accountability and the gravity of the offence.
17. Applying the Sentencing Policy Guidelines (2023), especially on proportionality, culpability, harm, and aggravating/mitigating factors, and guided by the approach adopted in *Muruatetu*, I am persuaded that a custodial sentence is appropriate in the circumstances. The brutality and seriousness of the offence, the loss of life, and the absence of remorse outweigh the personal mitigating factors.
18. In the circumstances, and considering sentences imposed in similar cases such as *Republic v Christopher Shivachi & 2 Others (2025) KEHC 166999(KLR)* (13th November 2025) and *Republic v Wilson Toroitich (2025) KEHC 16593(KLR)* (13th November 2025), a stiff custodial sentence is necessary to achieve the objectives of sentencing, particularly deterrence, retribution, protection of the public, and denunciation of unlawful killing.

Final Orders:

- 19.
- a. Accused to serve 20 years imprisonment
 - b. Period served in remand to be computed in the sentence above
 - c. Right of appeal 14 days

DATED, SIGNED AND DELIVERED AT ELDAMA RAVINE THIS 4TH DAY OF DECEMBER, 2025.

HON. R. NGETICH JUDGE

In the presence of:

Ms.Omari holding brief for Ms. Kosgei for Accused

Mr. Ogola for Accused.

Court Assistant - Karanja

Accused - Present

