

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL DIVISION**  
**CRIMINAL CASE NO. 51 OF 2019**

**REPUBLIC..... PROSECUTOR**  
**VERSUS**  
**DANIEL GITHINJI NJERI.....ACCUSED**

**SENTENCE**

1. The accused has been adjudged *guilty of murder*. The offence is grave and attracts the death penalty. However, the Supreme Court in ***Francis Karioko Muruatetu & another v Republic*** [2017] eKLR, has found that the ***mandatory*** nature of the death penalty is unconstitutional.
2. It bears repeating that the Supreme Court did not outlaw the death penalty. Rather, it left the trial court with discretion on sentencing.
3. The circumstances under which the murder took place are well detailed in the judgment dated 30<sup>th</sup> September 2025.
4. I have taken into account that the accused is a first offender and is aged about 29 years. I have also paid heed to the elaborate mitigation tendered on his behalf by his learned counsel, Mr. Njogu. He submitted that the murder was an unfortunate mistake and that the court should grant the offender a second chance in life. It is a

plea for clemency.

5. But from the *pre-sentencing* report dated 2<sup>nd</sup> December 2025 under the hand of *Mr. Albert Jaoko*, Principal Probation Officer, the offender is not deserving of a non-custodial sentence.
6. From the same social report, the deceased was only 33 years and in the process of opening a water vending business. He was the last born of Mr. & Mrs. Pius Kiarie Mbote. The homicide is a “*big blow to them, they have gone through grief and trauma and all of them are dealing with the loss differently.*”
7. Sentence must be *commensurate with the moral blameworthiness of the offender* and also guided by the *gravity of the offence*. Justice here calls for a custodial sentence. I accordingly sentence the accused to *fifteen (15) years imprisonment*. In accordance with Section 333 (2) of the **Criminal Procedure Code**, the sentence shall run from 7<sup>th</sup> August 2019, the date when he was 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 him immediately.

It is so ordered.

**DATED, SIGNED** and **DELIVERED** at **NAIROBI** this 27<sup>th</sup> day of January 2026.

**KANYI KIMONDO**  
**JUDGE**

**Sentence read virtually on *Microsoft Teams* in the presence of-**

Accused.

Ms. M. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. Njogu for the accused instructed by Omenke Adeje & Company Advocates.

Mr. E. Ombuna, Court Assistant.

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