



REPUBLIC OF KENYA



**Republic v Mwangi & another (Criminal Case E010 of 2021)
[2026] KEHC 381 (KLR) (26 January 2026) (Sentence)**

Neutral citation: [2026] KEHC 381 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E010 OF 2021
LN MUTENDE, J
JANUARY 26, 2026**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPH NDEGWA MWANGI 1ST ACCUSED

GRACE WAMBUI NJAU 2ND ACCUSED

SENTENCE

1. Joseph Ndegwa Mwangi, the 1st Accused, and, Grace Wambui Njau, the 2nd Accused, were jointly charged and convicted for the offence of Murder which occurred on 1st September, 2020, at Mahua Village in Nyahururu, Laikipia County.
2. No previous records have been availed from the Criminal Registry Office in respect of the Accused hence they are perceived to be first offenders.
3. To help determine the most appropriate sentence, as directed by the court, the Probation Officer carried out a social inquiry and filed pre-sentence reports in respect of both Accused.
4. The 1st Accused who denied any direct or indirect causation of the act including strangulation of the deceased was not remorseful. The 2nd Accused also vehemently denied having caused and/or contributed to the death of the deceased.
5. In mitigation, it is stated that the 1st Accused is 72 years old an age that comes with significant health problems. That he suffered a stroke the previous year and now has a weak left side of the body. That the community have a problem with him because of alcohol but he avers that he has stopped taking alcohol.



6. That the 2nd Accused is 59 years old and a single mother with one dependent, a 21 years old son and student at Garissa University who fully depends on her. That in the course of trial the Accused suffered having lost her home to a fire and has had to start afresh.
7. The secondary victims, siblings of the deceased expressed deep sorrow over the loss of their kin and desire justice to be served. The community members know that the 1st Accused whom they believe may have previously been involved in undocumented criminal activities. He is known to operate a drinking establishment which brings him into interaction with residents as well as patrons of illicit brew.
8. I have duly considered mitigating factors. The objective of sentencing involves deterrence, incapacitation, retribution, rehabilitation and restoration. It is important for an offender to be remorseful so as to be dissuaded from engaging in criminal activities as well as other members of the community from endeavoring to be involved in conflict with the law.
9. The objective of deterrence ensures the punishment meted out has a consequence of making the community condemn the crime. An offender should be expected to be rehabilitated so as to alter in the way of acting and wellbeing. An offender would be expected to repair the harm done by reconciling with the secondary victims and even consider compensating them. Whatever the objective the court may consider, what is paramount is for the court to ensure that there is the proportionality of the sentence to the crime committed. The court must be seen to consider both the Accused and the victim(s). In *Omuse v Republic* [2009] KECA 440(KLR) the court of appeal stated that;

“...the sentence imposed on an accused must be commensurate to the moral blame-worthiness of the offender and the proper exercise of discretion in sentencing call for “the Court to look at the facts and circumstances of the case in their entirety before setting for any sentence.”

(Also see *Ambani v Republic* (1990) KLR 16).
10. In *Letting v Republic* [2021] KECA 444 (KLR) the Court of Appeal stated thus;

“With regard to the above, we observe that the purpose and objectives of sentencing as stated in the Judiciary Sentencing policy should be commensurate and proportionate to the crime committed and the manner in which it was committed. The sentencing should be one that meets the end of justice and ensures that the principles of proportionality, deterrence and rehabilitation are adhered to.”
11. The accused persons are stated to be 72 years and 59 years respectively, which should be a mitigating factor. However, the deceased was strangled which was a brutal act. Looking at the circumstances of the offence, both the Accused and the victim were imbibing alcohol prior to the body being found, evidence against them having been circumstantial and not explained.
12. Section 204 of the Penal Code provides for a death penalty. However, following the decision of *Muruatetu & Another v Republic & 5 Others* (Petition 15 and 16 of 2015 [2017] KESC 2(KLR) the Supreme Court declared the death penalty unconstitutional as it contravenes fair trial as enshrined in *the Constitution*. Although the statute has not been amended, courts have continued to exercise discretion following case law and the circumstances of each case.
13. The offenders herein are not remorseful hence the court cannot tell whether they can be rehabilitated. The nature of violence visited on the deceased cannot be wished away.



14. Looking at comparative decisions, in Republic v Barasa [2024] KEHC 4581(KLR) where the deceased suffered strangulation among other injuries including depressed skull fracture he was sentenced to fifteen (15) years imprisonment by Kemei J.
15. In Republic v Njeri [2024] KEHC 13608 (KLR) where the Accused entered into a plea agreement with the State and the victim suffered manual strangulation, Mutuku J sentenced the Accused to serve 3 years under probation supervision.
16. The upshot of the above is that I sentence each Accused person to serve 10 years imprisonment.
17. Right of appeal explained.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 26TH DAY OF JANUARY, 2026.

L.N. MUTENDE

JUDGE

