



**Republic v Tila (Criminal Case E007 of 2024)
[2026] KEHC 1691 (KLR) (19 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1691 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL CASE E007 OF 2024
WM MUSYOKA, J
FEBRUARY 19, 2026**

BETWEEN

REPUBLIC PROSECUTION

AND

HELLEN ADHIAMBO TILA ACCUSED

RULING

1. The accused person herein was convicted, on 19th December 2025, of the murder of Josephat Egesa Kwoba, on 22nd July 2024. She is now a convict. I am called upon to sentence her for that offence. I will consider the penalties available in law for that offence, the circumstances of the commission of the offence, the feelings of the family of the victim and the antecedents of the convict.
2. The penalty, prescribed by the law, for murder, is mandatory death, according to section 204 of the Penal Code, Cap 63, Laws of Kenya. However, Francis Karioko Muruatetu & another vs. Republic [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki & Lenaola, SCJJ) made mandatory death, as the punishment for murder, unconstitutional. That meant that for murder the penalties available should be those others provided in law, including imprisonment, which is what ordinarily obtains for manslaughter.
3. As stated above, the penalty for murder, according to section 204 of the Penal Code, is death; while that for manslaughter is a maximum of life imprisonment, by virtue of section 205 of the Penal Code. Francis Karioko Muruatetu & another vs. Republic [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki & Lenaola, SCJJ), has thrown everything into a spin, by erasing the mandatory death sentence. Yet, the Attorney-General has not taken steps to have the Penal Code amended, to align it to the emerging jurisprudence. It would now appear that there is no difference between murder and manslaughter, so far as sentence is concerned.



4. I called for a pre-sentence report. The probation office has compiled one, and filed it, dated 9th February 2026, on even date. It is generally favourable. The convict is reflected as being remorseful, according to that report.
5. The convict explained, to the probation officer, that the deceased died within her home, but she denied having had a hand in the death. The narrative, that she gave to the probation officer, who made the report, was that the deceased did indeed visit her home, that material morning. She left him in her sitting room, drinking alcohol, which he had brought with him, and went to fetch water. When she came back, she found him sleeping, snoring. She continued with her household chores. Her husband woke up, and prepared to leave for work. She asked him how he could leave a sleeping man in their house, with her alone there, and he told her to let him continue sleeping, and he would wake up and leave, once he sobered up. She continued with her chores. When time came for her to leave her compound, for Bumala, where she traded, she decided to wake up the deceased, ostensibly to ask him to leave. She found him unresponsive. She called her mother-in-law, PW5, and another person, both of whom confirmed that he was dead. She was then advised to move the body, and report the matter to the authorities.
6. The narrative, that the convict gave to the probation officer, differed from her sworn defence statement, made in open court, on 11th November 2025. She testified that she had left the deceased at her house, and went to fetch water, and when she came back, she did not find him. PW5 then came, to cut maize stalks for her cattle, and left, only to come back, saying that she had found the body of the deceased lying on the ground, along a path, away from the home of the convict.
7. The narrative that she gave to the probation officer is more aligned to the testimonies of PW2 and PW5. PW2 testified that the convict had called him home. When he got there, he found the deceased lying there, dead, inside the house. The convict, PW5 and another person then carried the man, removed him from the house, and took him outside. PW2 advised PW5 to report the matter to the police. PW5 testified that it was the convict who called her to her house, claiming that the deceased was lying there, and she required assistance to wake him up. She went there, and found that he had died. She called another person, not PW2, who came and confirmed the death.
8. Clearly, the convict speaks with both sides of her mouth. That should call to doubt her proclaimed remorse. The conflicting narratives would not blend with her claims of innocence, remorse and regret. The shifting narratives can only point to the fact that the convict is not being candid, and is not remorseful. She created an impression, in her sworn statement in court, that she did not know how the deceased ended up lying on a road outside her compound; while, to the probation officer, she owned up to having moved his body from her house to the road. She lied on oath. Her testimony in court was loudly silent on any communication between her and her husband; contrasting with the conversation that she allegedly had with him, according to the probation report. She must have concealed matter from the court. The probation report paints a very good picture of the convict. However, that has to be taken against her lack of candour, given her shifting and inconsistent narratives, about what exactly transpired on the material day.
9. I have noted the circumstances of the commission of the offence, the statements made by the Advocate for the convict in mitigation, and the pre-sentence report. I have also noted the antecedents of the convict, and the sentiments of the family of the victim, and the community. I have taken all these into account, balancing them against the fact that a human being lost his life, in a most senseless way. In the circumstances, I shall give the convict a custodial sentence, being imprisonment, to be served for 25 years. There is a right of appeal, to the Court of Appeal, within 14 days. Orders accordingly.



DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, THIS 19TH DAY OF FEBRUARY 2026.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Onanda, instructed by the Director of Public Prosecutions, for the Republic.

Ms. Wasswani, Advocate for the accused person.

