

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT SIAYA**  
**CRIMINAL CASE NO. E020 OF 2024**

**REPUBLIC .....PROSECUTION**

**VERSUS**

**WILSON ADUOR OORO.....**  
**ACCUSED**

**RULING ON SENTENCE**

1. The accused person herein **Wilson Aduor Ooro** has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on 30<sup>th</sup> day of July 2023, at Nyandusi village, Kapiyo Sub Location, Sakwa Location, Bondo Sub County within Siaya County, jointly with others not before court murdered one Mary Adhiambo Okoth. Pursuant to the judgment of this court dated 19<sup>th</sup> January 2026, the accused was found guilty and convicted accordingly.
2. The sentencing hearing proceeded on 2nd February 2026. Mr. Odhiambo counsel for the accused person herein

submitted inter alia; that he has read the pre-sentence report and which should be adopted by the Court as recommended by the probation officer; that the accused has no previous conviction; that he is in good relationship with the family of the deceased; that the husband of the deceased has since visited accused while in remand custody; that the local administration and family of the deceased recommend for a non-custodial sentence; that the accused has reached out to the family of the deceased for pardon; that the accused prays for leniency and that a non-custodial sentence be imposed; that the circumstances of the case should determine the sentence as per the presentence report; that the prosecution has not presented any aggravating circumstances to warrant a death sentence; that non-custodial sentence be imposed.

3. Counsel for Prosecution, Mr. Muntui, submitted inter alia; that the mitigation must be weighed against the weight of the evidence; that human life was unlawfully taken; that the harm caused is irreversible; that personal circumstances are not exceptional or sufficient to reduce the accused's moral culpability and cannot justify the loss of life; that the deceased cannot speak for herself; that the prosecution seeks for custodial sentence which should reflect the objective of sentencing namely that loss of life does not protect an offender from imprisonment; that a custodial

sentence is warranted in the interest of justice and should be in accordance with the provisions of Section 204 of the Penal Code.

4. This court called for a pre-sentence report by the probation department. The same is dated 30<sup>th</sup> January 2026. The same indicates inter alia; that the deceased was an old woman who lived alone because her husband had a second family and who visited occasionally; that on the fateful day, her relatives noticed that she had not woken up early enough to go to church as it was her norm; that when they peeped through the window, her body was found lying on her bed, unresponsive; that they alerted the area chief who in turn called the police to the scene and who confirmed that she had died; that the offender feels sorry for the deceased and her spouse who are his grandparents; that the victim natured the offender since he was a toddler after the demise of his mother; that the offender explains that it was unfortunate and coincidence that the day he left for Mombasa, is the night the deceased was killed and found dead in the morning; that the offender maintains that he is innocent and does not know what transpired on the fateful

day; that he could not attend the funeral fearing for his life after learning that he had been mentioned adversely as the main suspect; that the offender had lost his phone a couple of days before the incident contrary to the belief he had deliberately switched it off after committing the offence; that the offender has been in good books with the husband of the deceased who visits him frequently while in prison to console him; that the family of the offender and the community as well are supportive and seeks for forgiveness from the victim's family on behalf of the offender; that the family of the victim are still bitter in that the offender betrayed their trust as they had supported him with basic needs as well as the school fees right from childhood and that the victim was like a mother to him and that they seek for a custodial sentence to serve as a lesson to him and other youths in the area with similar traits; that the victim's husband left the decision of the court to prevail; that the community members were shocked by the murder because the offender has been living with her when he was 1 ½ years old after the demise of his mother; that the community members believe that there is a possibility that someone

else might have taken advantage after the offender relocated to his father's home and later to Mombasa to frame him; that the community do not object to a non-custodial sentence; that the local administration is of the opinion that the offender requires rehabilitation from home since the husband of the victim has since visited the offender in prison and has been attending court mentions and hearings while accused was then out on bond; that the probation officer pointed out that the home environment is conducive for the offender to be accorded a non-custodial sentence but goes ahead to indicate that the offence is serious with severe consequences considering the fact that a life was lost.

5. I have considered the mitigating submissions by both learned counsels for the parties herein. I have also considered the pre-sentence report filed by the probation department. Under Section 204 of the Penal Code, the punishment for murder is a death sentence. However, following the decision of the Supreme Court in **Francis Karioko Muruatetu & 2 Others Vs. R (2017) eKLR**, the mandatory nature of sentence was declared as

unconstitutional and that the courts should receive mitigating circumstances from the offender before imposing an appropriate sentence thereafter. Hence, a trial court can still impose a sentence of death if circumstances warrant it.

6. It is noted from the autopsy report conducted on 1/8/2023 by Dr. Daniel Wanjovu Juma (PW9) of Bondo Sub - County Hospital which was conducted at Lwak Hospital Mortuary. He stated that the deceased had a swollen face with blood stain, pelvic organ collapse on the genitalia region, hemorrhagic congestion on the occipital region of the head and the skull. He formed the opinion that the cause of death was cardio respiratory failure secondary to asphyxiation and head injury. It is clear from the injuries that the deceased died a very painful death. The assailants upon assaulting her, they smothered her by strangling and then covered her body with a blanket. Hence the injuries sustained could not give her a chance to survive and made worse by the fact that the deceased who was an octogenarian lived alone without any family member or a worker at the time.

7. As regards the sentence to be imposed, the Court of Appeal in the case of **Charo Ngumbao Gugudu Vs. R (2011) eKLR**, held as follows:

*“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender and that it is thus not proper exercise for the court to fail to look at the facts and circumstances of the case in their entirety before settling for any given sentence. **See Ambani Vs. R (1990) eKLR.**”*

It is noted that the accused person snuffed out the life of an innocent old woman who was defenseless and did not deserve to die in the manner that she did. The deceased had known the accused as he used to live with her after his mother passed on while he was at the age of 1 ½ years and hence the deceased was like a mother to him. The actions of the accused in robbing the deceased of some money and subsequently killing her was vile to say the least. The deceased who was quite elderly looked up to the accused for

support and protection but instead the accused turned out to be a monster.

8. According to the Judiciary Sentencing Policy Guidelines (2023), sentencing of offenders should take into account the following objectives:

- a) Retribution- To punish the offender for their criminal conduct in a just manner.
- b) Deterrence- To deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing offences.
- c) Rehabilitation- To enable the offender to reform from his/her criminal disposition and become a law-abiding person.
- d) Restorative justice- To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs.
- e) Community protection- To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.

- f) Denunciation- To clearly communicate the community's condemnation of the criminal conduct.
- g) Reconciliation- To mend the relationship between the offender, the victim and the community.
- h) Reintegration- To facilitate the re-entry of the offender into the society.
8. Being guided by the foregoing sentencing guidelines as juxtaposed with the pre-sentence reports, it is noted that the accused herein stormed into the home of the deceased in the dead of the night robbed her and later killed her and sneaked out through a window. The deceased who was an elderly lady was defenseless and could not even manage to raise alarm so as to attract the neighbours. The injuries suffered by the deceased as described by the pathologist were so severe and which did not give her any chance of survival. She therefore died a painful death. The accused who had been raised by the deceased at the age of 1 ½ years after his mother passed on was expected to protect her but instead turned into a monster and killed her. One of the sons of the deceased who was interviewed by the probation

officer is still bitter and seeks for a custodial sentence. The pre-sentence report also indicate that the husband of the deceased seems to have a soft spot for the accused and is reported to have visited him while in prison. The villagers appear to entertain the notion that perhaps the accused was set up by other persons and implicated for the incident just because he left the area for Mombasa the day the deceased was murdered. The report also indicates that the accused still maintains his innocence and therefore he is not remorseful in my view despite the fact that this court has already convicted him. Even though the report recommends for a non-custodial sentence, I find that the accused does not merit the same in view of the fact that the life of an innocent old woman was lost thanks for the accused's greed for money. It is also noted that the accused still maintains his innocence and therefore he is still not remorseful to warrant leniency from this court. I find that the accused requires to undergo comprehensive custodial rehabilitation before being allowed back into the society. Indeed, the accused is still in his prime but the custodial rehabilitation will help to mould him into a better individual before being released back to the

society. It is instructive that the accused was taken in by the deceased when he was barely 1 ½ years old after his mother passed on and that all his early life remained a vacuum due to the absence of his mother and possibly his father and therefore I find that this contributed to some sort of dysfunctional life and this calls for comprehensive rehabilitation. I am of the view that a sentence of fifteen (15) years imprisonment is commensurate and reasonable in the circumstances and which shall commence from the date of conviction namely 19<sup>th</sup> January 2026 as the accused had been out on bond pending trial.

9. In the result, i order the accused herein **Wilson Aduor Ooro** to serve a sentence of fifteen (15) years' imprisonment from the date of conviction namely 19/1/2026.

Orders accordingly.

**Dated and delivered at Siaya this 13<sup>th</sup> day of February 2026.**

**D. KEMEI  
JUDGE**

**In the presence of:**

**Wilson Aduor Ooro..... Accused.**

**Odhiambo .....for Accused.**

**Soita.....for Prosecution.**

**Maurine/Kimaiyo.....Court Assistant.**

SIAYA HCCRC NO. E026 OF 2024 - RULING