

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL CASE NO. 41 OF 2023

REPUBLIC.....

.....PROSECUTOR

VERSUS

JAMES MURIITHI MBUGUA.....

ACCUSED

JUDGEMENT

1. The accused James Muriithi Mbugua was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63 laws of Kenya. The particulars are that on 29th December 2021 at Kabete Uthiru, in Dagoretti Sub County within Nairobi County murdered Miriam Wangari Kariuki. The accused pleaded not guilty to the charge.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He signed a plea agreement on 2nd September 2025. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as outlined in the plea agreement, are as follows. On 28th December 2021 the deceased left her home after making arrangements with her husband, Danstan Kariuki. She proceeded to the family business, Micah Hardware, in Kangemi, where she boarded motor vehicle KCG 473W driven by the accused, their employee of five months. Together they transported cement to the construction site at Thamanda, Muguga. After off-loading, the

accused departed, leaving the deceased with workers including James Mangeri and Benjamin Kinyanjui.

4. At about 5.00 p.m. the deceased informed Mangeri she was leaving. Around 7.30 p.m. she contacted boda boda rider Peter Kamau alias Wangathoni, who transported her towards Muguga town, where he observed her board a matatu towards Uthiru. Later that evening, at about 8.30 p.m., the deceased spoke by telephone to her husband and to her son Joseph Njoroge, stating she felt unwell and would spend the night in Muguga.
5. Thereafter the deceased disappeared. Her husband's attempts to contact her on 30th December were unsuccessful. He reported the matter at Kabete Police Station on 31st December 2021 (OB 37/31/12/2021). Shortly afterwards the deceased's son Christopher Kariuki communicated with the accused, who claimed illness and later visited the family home on 2nd January 2022. He requested the deceased's identification details and phone PIN, allegedly to assist in tracing her through a purported DCI contact.
6. On 4th January 2022 the accused's employment was terminated and he returned the lorry. Christopher searched the vehicle and recovered a notebook containing the deceased's bank details, a withdrawal slip from Equity Bank, and a used syringe (Exh.1).
7. Police evidence proved that on 1st January 2022 herders discovered dismembered human body parts in Mutarakwa Forest. PC Melly and CPL Langata visited the scene and recovered a human leg and hand, a sack, and blood-stained clothing. The hand bore a ring engraved "Kariuki". Photographs, the sack and ring were produced as Exh.1 to 4. Fingerprints forwarded by SCCIO Joseph Maina to the National Registration Bureau were

matched to the deceased in a report dated 13th January 2022 signed by Jackson Karoke (Exh.6).

8. The husband positively identified the ring on 28th January 2022. He and Daniel Njoroge later identified the remains for post-mortem examination. Although the pathologist found the cause of death indeterminate, DNA analysis conducted by Government Chemist analyst K. K. Sang confirmed the remains belonged to the biological mother of Christopher and Nancy (Exh.9).
9. Investigators also recovered a jacket near the scene, though forensic analysis did not generate a DNA profile (Exh.12). Call data records obtained pursuant to orders of the Kibera Law Courts and supplied by Safaricom, showed sustained communication between the deceased and the accused on 29th December 2021, culminating in both phones converging at Muthiga shortly before the deceased's handset went off. Crucially, on 5th January 2022 the deceased's IMEI number was paired with the accused's SIM card.
10. On 10th January 2022 officers traced and arrested the accused in Njambini, Nyandarua. During the search, witnessed by PC Wambua, the deceased's mobile phone was recovered from the accused's pocket (Exh.15). Although he claimed ownership, both family testimony and telecommunications records proved the phone belonged to the deceased.
11. The accused was later assessed at Mathari National Hospital and certified fit to plead (Exh.17).
12. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that, the accused's constitutional rights had not been violated during the negotiation

process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.

13. The Court is satisfied beyond reasonable doubt that the accused unlawfully caused the death of the deceased, albeit without proof of malice aforethought sufficient for murder. The ingredients of manslaughter are therefore established.
14. In mitigation, Mr. Onduso, learned counsel for the accused, submitted that the accused accepted responsibility at the earliest opportunity by pleading guilty to the lesser charge of manslaughter. Counsel urged the Court to consider that the plea agreement spared judicial time and resources and shielded the deceased's family from the ordeal of a full trial. He stated that, upon reviewing the witness statements, he had advised the accused to reconsider the plea, but the accused remained resolute, expressing a desire to accept responsibility so as to enable the family to obtain closure.
15. Counsel further submitted that the accused is 49 years old, a first offender, and a family man with a wife and five children, three of whom are minors wholly dependent upon him. It was argued that a lengthy custodial sentence would occasion hardship to the innocent children and undermine their welfare. Counsel added that the accused's family has attempted to reach out to the deceased's relatives with a view to reconciliation, though such overtures have not yet borne fruit.
16. The Court was also informed that the accused had tendered written apology letters (Defence Exhibits 3 and 4) and had demonstrated remorse during his period in custody. Counsel relied on a recommendation letter from the prison authorities

together with certificates showing that the accused undertook theological studies and obtained a diploma in Biblical studies while incarcerated (Defence Exhibit 2(b) (I - ii)). He was said to have participated in counselling sessions, including anger management, and to have served as a pastor and usher within the prison community. Counsel submitted that these matters demonstrate rehabilitation and a genuine prospect of reintegration into society.

17. On the circumstances of the offence, counsel urged the Court to find that there was no premeditation. He submitted that the death occurred following an altercation between the accused and the deceased while they were privately together, and that in anger the accused threw a metal dumb-bell which struck the deceased on the head, causing her to lose consciousness and die. Counsel further submitted that both parties were under the influence of alcohol and that the subsequent dismemberment and disposal of the body were acts of panic rather than design.
18. Counsel cited the sentencing objectives articulated in **Thomas Mwambu Wendi v Republic [2017] eKLR** and the decision of the Indian Supreme Court in **Alister Anthony Pereira v State of Maharashtra**, emphasising that sentencing must balance punishment with correction and rehabilitation. He also referred the Court to **Republic v Njeri & Another (E002 of 2025)**, where a sentence of ten years' imprisonment was imposed in a case involving a fatal assault. Counsel therefore urged the Court to impose a custodial term of seven years inclusive of time already served, submitting that such a sentence would meet the ends of justice.

19. Ms. Maina, learned prosecution counsel, confirmed that the accused has no previous criminal record and acknowledged that the plea agreement saved judicial time. Nevertheless, she urged the Court to be guided by the Sentencing Policy Guidelines and to consider not only rehabilitation but also deterrence, community protection, and the gravity of the offence.
20. The State further submitted that several aggravating factors arise. First, the offence involved the mutilation of the deceased's body and therefore constituted inhuman treatment and abuse of a corpse. Secondly, the remains were scattered in different locations, and significant portions of the body, including the torso and head, have never been recovered. Thirdly, the prosecution argued that the dismemberment must have taken time and effort, indicating calculated conduct after the death. Fourth, the accused was in a position of trust as the deceased's employee and driver and committed the offence in circumstances connected to that relationship. Fifth, the prosecution pointed to the accused's attempt to conceal evidence, including possession of the deceased's phone and his effort to snatch it from the arresting officer.
21. The State therefore urged the Court to impose a substantial custodial sentence commensurate with the seriousness of the offence and necessary for the protection of the community.
22. The Court also received victim impact statements. Sarah Wanjema, the deceased's sister, spoke of the profound emotional and physical toll the death had inflicted upon the family, including the failing health of their parents. She lamented that only partial

remains had been recovered and pleaded for disclosure of the missing body parts so that the family may achieve closure.

23. Christopher Maina, the deceased's son, described his mother as the pillar of the family and expressed anguish at her violent death and dismemberment. He recounted that the accused had been trusted and assisted by the family and questioned why he turned against the deceased. He stated that the family continues to live in fear and grief and urged the Court to ensure justice is done.
24. I have also considered the pre-sentence report on record.
25. The penal section for the offence of manslaughter is contained in section 205 of the Penal Code which provides: -

Any person who commits the felony of manslaughter is liable to imprisonment for life.

26. The court of Appeal in **Thomas Mwambu Wenyi v Republic (2017) eKLR** cited the decision of the Supreme Court of India in **Alistar Anthony Pereira v State of Maharashtra at paragraph 70-71** where the court held as follows on sentencing:

"Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the

offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence"

27. Further, the Court of Appeal in **Charo Ngumbao Gugudu -vs- Republic (2011) eKLR** held as follows: -

*"Further the law is that sentence imposed on an accused person must be commensurate in the moral blame worthiness 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 setting for any given sentence (**See Ambani -vs- Republic (1990) eKLR.**)"*

28. In the instant case, the deceased, Miriam Wangare Kariuki, was last seen alive in circumstances placing her within the control and proximity of the accused, who occupied a position of trust as her employee and driver. Thereafter she vanished, and what followed was not merely the concealment of a death, but a sequence of acts displaying extreme disregard for human dignity. The Court is satisfied that the accused not only caused her death but undertook deliberate and calculated steps to dismember her body, and scatter her remains in order to evade detection.

29. The most disturbing feature of this case is the treatment of the deceased's body. The evidence establishes that the body was

dismembered into separate parts and disposed of in different locations. Only some parts were recovered, while crucial parts, including the head and torso, have never been found. The nature of the injuries and the condition of the remains demonstrate a gruesome and methodical dismemberment. This was not a single act done in haste but a prolonged and deliberate process requiring time, physical effort, and a conscious decision to mutilate the body. Such conduct goes far beyond what might be described as post-offence panic. It reflects calculated attempts to obliterate the deceased's identity, frustrate investigations, and deny the family the dignity of a burial.

30. The Court must emphasise that the mutilation of a human body represents one of the gravest forms of post-homicide conduct known to the law. It violates not only the sanctity of life but also the dignity owed to the dead. The scattering of the remains meant that the deceased's family were forced to confront the horror of recovering isolated body parts rather than the body of their loved one. To date, the absence of the head and torso continues to deny them closure. The psychological cruelty inherent in this state of uncertainty constitutes a serious aggravating factor.

31. The aggravation is compounded by the accused's conduct immediately after the killing. The evidence shows that he retained the deceased's mobile phone and appropriated her money. Telecommunications records confirmed that her handset was subsequently used with his SIM card, and the device was recovered from his person upon arrest. This demonstrates that, even after causing her death, the accused exploited the

deceased's property for his own benefit. Such conduct aggravates culpability, as it reveals opportunistic gain arising directly from the offence.

32. The Court further finds that there were persistent and deliberate attempts to conceal evidence. These included the dismemberment itself, the dispersal of the body parts, the retention and attempted destruction of the deceased's phone, and the failure to disclose the whereabouts of the missing remains. These actions were not momentary lapses but formed a sustained pattern of concealment. They show that the accused's conduct after the killing was purposeful and directed towards avoiding accountability.

33. In sentencing, the Court has considered the plea of guilty, the mitigation tendered, the period spent in custody, and the personal circumstances of the accused. The Court accepts that the plea spared the deceased's family the ordeal of a lengthy trial and saved judicial time. This stands as the primary mitigating factor in the present case.

34. However, the aggravating features are exceptionally weighty. A life was taken; the body was gruesomely mutilated; the remains were scattered; significant portions remain missing; the accused profited from the deceased's property; and there were sustained attempts to conceal evidence. The Court must also recognise the profound and continuing suffering of the deceased's family, who have been denied the most basic element of mourning and the opportunity to lay their loved one to rest in full.

35. The sanctity of human life and the dignity of the human body, even after death, are fundamental values that the Court must

firmly uphold. While the accused is a first offender and has expressed remorse, these factors cannot eclipse the brutality of the conduct disclosed by the evidence. A sentence lacking a strong punitive element would fail to reflect the seriousness of the offence and would undermine public confidence in the administration of justice.

36. Were it not for the plea of guilty entered by the accused, this Court would have imposed the maximum sentence permitted by law. The Court must, however, give weight to the mitigating factor: the accused accepted responsibility by pleading guilty, thereby sparing the deceased's family the ordeal of a lengthy trial and conserving judicial time. The Court also notes that he is a first offender and has been in custody for a considerable period pending determination of this case.

37. Notwithstanding the aforesaid factors, the gravity of the offence, the gruesome mutilation of the deceased's body, and the need for deterrence, the community protection however demands a very substantial custodial sentence. The sentence must reflect the Court's condemnation of the conduct and affirm the sanctity of human life and the dignity owed to the dead.

38. In the result, the accused, James Muriithi Mbugua, is hereby sentenced to forty (40) years' imprisonment, the sentence to run from 10th January 2022, being the date of his arrest, in accordance with section 333(2) of the Criminal Procedure Code. Orders accordingly.

Judgement dated and delivered virtually this 25th day of February 2026

**D. KAVEDZA
JUDGE**

In the presence of:

Ms. Maina for the Prosecution

Mr. Onduso for the Accused

Karimi Court Assistant.

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