



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL CASE NO. E146 OF 2021

REPUBLIC

PROSECUTOR

VERSUS

DENNIS WESA NDUKU

ACCUSED

RULING ON SENTENCE

1. The Accused Dennis Wesa Nduku stands convicted of murder contrary to Section 203 as read with Section 204 of the Penal Code.
2. The circumstances of the case was that the Accused, in company of his friends, attacked the deceased and in the process, the Accused drew a knife and fatally stabbed the deceased.

3. Ms. Ihachi for the Accused has pleaded for leniency on his behalf. She has said that the Accused is a young person in his formative years, is remorseful, and capable of reform and rehabilitation. Additionally, he is the primary financial provider of his family as he comes from a modest background.
4. Ms. Chala for the prosecution has asked the court to treat the Accused as a first offender but to recognize that the Accused had armed himself and used a knife to stab the deceased in a crime that was senseless. She urges the court to mete out a sentence that is proportionate to the crime.
5. The pre-sentence report places the Accused person's age at 25 years with a history of abuse of bhang and alcohol. It indicates that the Accused person displays several criminogenic risks and needs. From the report, it appears that after the incident, the community, acting in retaliation burnt down the houses of the offender and his family.
6. It is reported in the pre-sentence report that the victim's family has suffered profoundly after his death as two of

his older children have dropped out of school since the victim's widow is unable to take care of them singlehandedly. The future of the children is uncertain yet the youngest was only five months old at the time of the incident. The family's emotional and economic stability was shattered by the crime.

7. In determining the appropriate sentence, this court is guided by the principles of sentencing set out in the Judiciary Sentencing Policy Guidelines (2023).
8. The court considers the fact that the Accused was pre-armed with a knife at the time of the incident. A knife is a lethal weapon and the fact that the Accused was armed with it implies a readiness to use deadly force during the confrontation. The court also considers the fact that the Accused and his companions were aggressors and followed the unarmed victim after he had fled and assaulted him and this was in the middle of a funeral vigil where absolute solemnity was expected.
9. Being guided by the Judiciary Sentencing Policy Guidelines, the court must impose a sentence that will achieve the objective of deterrence and send a clear

message that the sanctity of life is paramount while bringing retribution for the victim whose family suffered immensely from the senseless attacks. The aforesaid are serious aggravating facts.

10. For the objectives of sentencing to be achieved, the sentence imposed must be proportionate to the offence.
11. The court must balance the Accused's youth and status as a first offender against the brutal nature of the attack and its adverse impact on the victim's family. Although the family of the Accused will suffer due to his imprisonment, the court must be cognizant of the fact that the victim's life was cut short prematurely and his family permanently deprived of his love and care. The principles of retribution and the imperative to protect the public outweigh the Accused's plea for leniency.
12. Upon weighing the mitigating and aggravating factors, the Accused is sentenced to twenty five (25) years imprisonment. The period that the Accused spent in custody during the trial shall be taken into account and deducted from the sentence in accordance with Section 333 (2) of the Criminal Procedure Code.

Dated, signed, and delivered at Kakamega, this 3rd day of March 2026.

**A. C. BETT
JUDGE**

In the presence of:

Ms. Chala for the Prosecution

Ms. Ihachi for the Accused

Court Assistant: Polycap

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