

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL CASE NO. 72 OF 2012

REPUBLIC..
.....**PROSECUTOR**
VERSUS
SAMUEL TEDDY GITAU.....ACCUSED

SENTENCE

1. The accused murdered his wife *Mercy Wanjiku Muiruri* (hereafter *the deceased*) in a grisly manner at their home in Ong’ata Rongai Township.
2. The circumstances surrounding the offence are detailed in the judgment delivered on 3rd day of February 2026. In summary, he strangled the deceased to death. According to the pathologist, she died from “*asphyxiation due to manual and ligature strangulation*”. But there was also evidence at the trial that the accused hit the deceased on the head with a stool. The first responders found the blood-stained body under a bed: it was half-naked with an injury on the head and the private parts.
3. I have taken into account the address by the learned prosecution counsel, *Ms. Kigira*, on sentencing as well as the

mitigation tendered by the accused through his learned counsel, *Mr. Githaiga*.

4. The accused is a first offender. He has been in custody for nearly 14 years. He was initially tried for this murder, convicted and sentenced to death by the High Court (*Mutuku J*). On 4th February 2022, the Court of Appeal ordered for a fresh trial due to procedural breaches at the earlier trial. That cycle partly explains the delay in this case.
5. Learned defence counsel submitted that the accused has reformed and is remorseful. He is now 50 years and in poor health. His three children have lived for all these years without their parents. Considering the long period spent in remand, counsel prayed for a lenient or non-custodial sentence. It was in my view a plea for clemency.
6. I have then considered the *pre-sentencing report* dated 6th March 2026 under the hand of *Ms. Margaret Aduol*, Probation Officer, Nairobi. She recommends a non-custodial sentence in light of the long period spent in remand adding that “*appropriate measures as cited above will be instituted to address the identified risks and criminogenic needs*”.

7. The views of the victim's family are well captured in the social report. The deceased was only 22 years. Two of the children she left behind were below one year; the other was nine. They are now under the care of their maternal uncle. No effort was made by the accused or the in-laws towards reconciliation further straining the relationship between the two families. There are then the consequent financial and psychological burdens that the deceased's family has had to endure.
8. Murder is a grave felony that attracts the death penalty. However, following the Supreme Court decision in ***Francis Karioko Muruatetu & another v Republic***, Consolidated Petitions Nos. 15 & 16 of 2015 [2017] eKLR, the *mandatory* nature of the death sentence as provided for under section 204 of the **Penal Code** was declared unconstitutional.
9. It bears repeating that the decision did *not* outlaw the death penalty, but it left the court with discretion to impose a lighter sentence. Sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by *the nature and gravity of crime*.

10. I find that justice in this case calls for a custodial sentence. I sentence the accused to *twenty (20) years* imprisonment. However, and in accordance with section 333 (2) of the **Criminal Procedure Code**, the sentence shall run from 10th September 2012, the date when he was first arrested and placed in custody for this offence.

11. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the proceedings, judgment and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED and DELIVERED this 11th day of March 2026.

KANYI KIMONDO
JUDGE

Sentence read virtually on Microsoft Teams in the presence of: -

The accused.

Ms. Kigira for the Republic instructed by the office of the Director of Public prosecutions.

Mr. Githaiga for the accused person instructed by Githaiga Munyeki & Associates Advocates.

Mr. E. Ombuna, Court Assistant.