



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E024/2024

REPUBLIC VS JOACHIM NJUE

CUSTODIAL SENTENCE

1. The court convicted the accused of the murder of Salim Kaingu Kahindi alias Ausio, committed on 9th October 2024 at the Kisimani area along the Mombasa–Malindi Highway, Nyali Sub-County within Mombasa County.
2. Mr. Ahmed mitigated on behalf of the accused, submitting that the accused is remorseful and seeks the court’s mercy. Counsel stated that the accused regrets the circumstances that led to the loss of life and emphasized that he is a first offender. He further informed the court that the accused is the family breadwinner and that his dependents have been greatly affected. Counsel maintained that there was no premeditation and urged the court to consider that the accused is young and willing to reform. The accused, in his own mitigation, asked for forgiveness from the family of the deceased.
3. Ms. Cherop, for the State, relied on the Pre-Sentence Report (PSR) and reiterated the circumstances of the case. It was stated that the accused became agitated after the deceased allegedly spread information that it was his turn to receive money from merry-go-round contributions. Upon confronting the deceased, the accused stabbed him with a penknife. The report indicates that the accused is remorseful, which is consistent with his mitigation in court. However, it also notes that the accused considers himself a “victim of circumstances” and claims to have acted out of provocation and self-defence. The report recommends leniency.



4. **Part 5.2** of the **Sentencing Policy Guidelines (SPG)** on murder emphasizes



that sentencing is not a measure of the value of the victim's life, but should take into account aggravating and mitigating factors (see ***Michael Kathewa Laichena & another v Republic [2018] KEHC 5488 (KLR)***).

5. Further, in ***Francis Karioko Muruatetu & Wilson Thirimbo Mwangi v Republic, Petition Nos. 15 & 16 of 2015***, the Supreme Court affirmed that courts retain discretion in sentencing and are not bound by the mandatory nature of the death penalty.
6. The court has also taken into account that, at the material time, both the accused and the deceased had been consuming alcohol. Evidence further disclosed that the deceased had exhibited aggressive conduct prior to the incident, including having stabbed a friend of the accused. While this does not in any way justify the unlawful taking of life, it constitutes a relevant mitigating circumstance in assessing the degree of moral blameworthiness of the accused and partly explains the court's inclination towards a more lenient sentence.
7. Having considered all the above factors, the court hereby sentences the accused to ten (10) years' imprisonment.
8. It is so ordered.
9. Right of appeal explained in Swahili.

DATED, SIGNED, AND DELIVERED in **MOMBASA** virtually via M.S. Teams this **19th day of March, 2026**.

W. K. MICHENI

JUDGE

SIGNED BY/FOR:
HON. LADY JUSTICE WENDY MICHENI



THE JUDICIARY OF KENYA.
MOMBASA HIGH COURT
HIGH COURT CRIMINAL



