



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Republic v Kituyi (Criminal Case E005 of 2022)  
[2025] KEHC 1562 (KLR) (27 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1562 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
CRIMINAL CASE E005 OF 2022  
REA OUGO, J  
FEBRUARY 27, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**LEMMY MAKARI KITUYI ..... ACCUSED**

**SENTENCE**

1. Lemmy Makari Kituyi was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The deceased was his wife. Upon conviction and after a full hearing, the court sought a pre-sentence report to help in determining an appropriate sentence.
2. The accused is a first offender.
3. The pre-sentence report states the following: he is 52 years old and has no previous convictions. The accused has a humble background. The victim's family has forgiven him, and they have left it to the court to exercise its discretion on the matter. The community was angered by the incident of the loss of life and they are alive to the fact that the incident was a normal domestic fight and that the accused had no intention of taking away the life of the deceased. The accused has 7 children with the deceased some of them are now being taken care of by relatives in different locations. Both families are open to reconciliation. The report further indicates that the families are on talking terms and that the court may exercise mercy by giving him a lenient sentence, the couple having enjoyed a harmonious relationship with the deceased for over 20 years.
4. The accused's counsel stated as follows in mitigation: The accused prays for leniency. He regrets the events of 19<sup>th</sup> and 20<sup>th</sup> February 2022. The accused and deceased were under the influence of alcohol. The deceased left seven children who have since been scattered and are being taken care of by relatives. Before this, they had lived together for the last 23 years, and currently, the burden of taking care of their



children is on the extended family members, which has come at a great cost. The accused has been in custody since February 2022, he seeks the said period to be considered whilst sentencing him.

5. Murder is a serious offence. I have considered the pre-sentence report and mitigation. I have also considered the evidence adduced on how the deceased died. The accused was found beating his wife, and despite the neighbour's intervention, he continued to beat his wife. He blames alcohol, but choices have consequences. I have also considered the guidelines on sentencing. The report recommends a lenient sentence. I, therefore, sentence Lemmy Makari Kituyi to serve fifteen (15) imprisonment. The period he has spent in remand shall be taken into account whilst computing his sentence as provided under section 333(2) of the *Criminal Procedure Code*.

**DATED , SIGNED, AND DELIVERED AT BUNGOMA ON THIS 27TH DAY OF FEBRUARY 2025.**

**R.OUGO**

**JUDGE**

In the presence of:

Lemmy Makari Kituyi/ Accused

Mr. Maloba -For the accused

Miss Matere - For the State

Wilkister - C/A

