



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kariuki alias “Eddy” (Criminal Case E011 of 2022)
[2025] KEHC 5451 (KLR) (30 April 2025) (Sentence)**

Neutral citation: [2025] KEHC 5451 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E011 OF 2022
SM MOHOCHI, J
APRIL 30, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

EDWARD MUREI KARIUKI ALIAS “EDDY” ACCUSED

SENTENCE

1. The convict Edward Murei Kariuki Alias “Eddy” was arrested on 3th February 2022 and on 18th February 2022 he pleaded not guilty to the charge of murder contrary to Section 203 as read with Section 204 of the *Penal Code*.
2. The Court by the judgment delivered on 26th February, 2025 found him guilty of the offence of manslaughter and convicted him accordingly. Before mitigation, this Court did call for pre-sentence report.

Pre-Sentence Report

3. In the pre-sentence report dated 26th March, 2025, it was stated that considering the views of the community members, the local administration, the victim’s family’s bitter attitude and their unwillingness to forgive the convict, and suggests that the home environment is currently not conducive for the convict’s reintegration and that the court exercise discretion in determining an appropriate sentence.
4. The Probation officer recommended a custodial sentence as the victim’s family is yet to come to reconciliation and demand for a custodial sentence.



Analysis and determination

5. The [Sentencing Policy Guidelines](#) 2023 vide Gazette Notice No. 11587 of 1st September 2023 set out the sentencing principles.
6. Clause 1.3 sets out the sentencing objectives as follows: -
 - i. Retribution: To punish the offender for his/her criminal conduct in a just manner.
 - ii. Deterrence: to deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing similar offences.
 - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding citizen
 - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages sustained by the victim and the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs
 - v. Community protection: to protect the community by removing the offender from the community thus avoiding further perpetuation of the offender's criminal acts.
 - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation: to mend the relationship between the offender, the victim and the community
 - viii. Reintegration: To facilitate the re-entry of the offender into the society
7. Pursuant to Clause 2.3.15, of the said guidelines, the following factors are to be considered in deciding whether to impose a custodial or a non-custodial sentence:-
 - i. Gravity of the offence
 - ii. Criminal history of the offender
 - iii. Children in conflict with the law
 - iv. Conduct of the offender
 - v. Protection of the community
 - vi. Offender's responsibility to third parties:
8. It is to be noted that, the Supreme Court in *Muruatetu 1* stated that these guideless do not supersede judicial discretion. They help in providing guidance in consistency transparency and fairness.
9. Section 204 of the Penal Code provides that a conviction of murder attracts a death sentence. However, the Supreme Court of Kenya in [Francis Muruatetu & Another v Republic](#) [2017] eKLR in finding that the mandatory nature of the death sentence to being unconstitutional stated that:-

“ 58 We now lay to rest the quagmire that has plagued the court with regard to the mandatory nature of Section 204 of the *Penal Code*. We do this by determining that any court dealing with the offence of murder is allowed to exercise judicial discretion by considering any mitigating factors in sentencing an accused person charged with and found guilty of that offence. To do otherwise will render a trial, with the resulting sentence under Section 204



of the Penal Code unfair thereby conflicting with article 25(c), 28, 48 and 50(1) and (2) (g) of the *Constitution*”

10. I note that the convict also acknowledges the commission of the offence, he is remorseful, apologetic and regrets the accused was not being in full possession of his faculties when the regrettable incident occurred, that the convict and deceased George Oluoch were good friends and in good terms until the latter's untimely and totally un-premeditated death.
11. That the convict had requested to have the matter taken out for resolution through Alternative Justice System - AJS through a letter dated 3rd October, 2022.
12. That the convict is a young man with young children and wife who have been left without a father figure and head of the family.
13. That the Probation Officer's Report paints a sorry picture of Edward's family. Orphaned at a young age, raised by maternal grandmother and dropped out of technical college due to apt poverty.
14. That the convict is a first-time offender without any prior criminal record. There is high hopes of reform and social re-adaption on his part.
15. That the convict has been in remand custody since his arrest on 3rd February, 2022 and has had time to reflect on his actions and the consequences.
16. This Court has an equal duty to consider the victims and the impact the crime has occasioned upon them in this instance the victim's family expressed profound suffering over the loss of their loved one. In particular, the deceased's wife lamented as though the incident had happened just yesterday. She was not ready or willing to speak out, as it felt like reminding her of the pain. She described the emotional distress she endures, alongside difficulties in meeting basic needs for her three children, who are sometimes sent home due to unpaid school fees she cannot raise. It has also become a challenge for her to pay rent. She is working hard to make ends meet and bitterly exclaims that this is the offender's fault. She states that her husband was the sole breadwinner, and since the incident, she has been psychologically and emotionally affected.
17. That the deceased was a casual laborer, very aggressive and enthusiastic in his work, ensuring his family lacked nothing. Because of this, the victim's family demands justice. The convict's family has never sought forgiveness or reconciliation. On the other hand, the deceased's family strongly refuses any release of the convict, and in this case, they are not willing or ready to welcome any reconciliation.
18. The victim's family is deeply bitter. The death of their beloved one is still fresh in their minds. They are not ready or willing to welcome any forgiveness or reconciliation at the moment but cry out for justice.
19. Taking a life in itself is a serious offence which attracts a heavy punishment.
20. In the premise having considered the circumstances leading to the offence, the gravity of the offence, the fact that the convict is a first-time offender, his age and the unfavorable recommendation by the probation officer, I am of the considered view that in order to meet the objective of retribution, deterrence and rehabilitation of the convict, both a custodial and a non-custodial sentence would be most appropriate.
21. The accused is hereby sentenced to fifteen (15) years imprisonment. Ten (10) years with effect from 3rd February 2022 to deter and retribute him and five (5) years thereafter on probation in order to rehabilitate and reiterated him back to the society.

It is so ordered.



DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 30TH DAY OF APRIL 2025

MOHOCHI S.M.

JUDGE

