



**Republic v Abuto (Criminal Case E023 of 2024)
[2025] KEHC 7516 (KLR) (28 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 7516 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
CRIMINAL CASE E023 OF 2024**

OA SEWE, J

MAY 28, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

ALLAN OUMA ABUTO ACCUSED

SENTENCE

1. Section 204 of the *Penal Code* stipulates that any person convicted of murder shall be sentenced to death. However, at paragraph 2.3.13 of the [Judiciary Sentencing Policy Guidelines, 2023](#) it is suggested that:

“Where the option of a non-custodial sentence is available, a custodial sentence should be reserved for cases where the offence is so serious that neither a fine nor a community sentence can be justified. The length of that sentence will depend on the maximum penalty allowed by law and the seriousness of the offence and other factors set out in Part V. The court should bear in mind the high rates of recidivism associated with imprisonment and seek to impose a sentence that is geared towards achieving the sentencing principles and objectives set out in Part I.”

2. The accused addressed the Court in mitigation through his counsel. It was indicated that he is a first offender; and that he is remorseful for the offence and has apologized to his family. His counsel further told the Court that the accused has a young family to care for and that he did not intend to kill his younger brother.
3. The Court called for a Pre-Sentence Report as well as a Victim Impact Assessment Report. The two reports show that, although the accused is a first offender, the family is opposed to his being given a non-custodial sentence. The reports reveal that he has threatened harm to his mother on several occasions; and that the incident caused trauma to the mother and siblings of the accused, to the extent that they are



now fearful for their lives because. It was further indicated that while in custody, the accused threatened to kill all those of his family members who would testify against him. The Pre-Sentence Report further shows that the community members are likewise hostile to his return and are not ready to receive him back because of his quarrelsome habits. Moreover, it was indicated that his own life might be at risk should he be given non-custodial sentence.

4. Thus, having taken all the foregoing factors into account, particularly the circumstances in which the offence was committed, the accused, Allan Ouma Abuto, is hereby sentenced to imprisonment for a period of 30 years.

It is so ordered.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 28TH DAY OF
MAY 2025**

OLGA SEWE

JUDGE

