



Republic v DKK (Criminal Case 11 of 2023) [2025] KEHC 11425 (KLR) (31 July 2025) (Sentence)

Neutral citation: [2025] KEHC 11425 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE 11 OF 2023
RB NGETICH, J
JULY 31, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

DKK ACCUSED

SENTENCE

1. The accused, DKK, was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars were that on 20th April 2021, at Poror Arama Location within Koibatek Sub- County, Baringo County, at around 1000 hours, he murdered William Kipkoros Chumo.
2. By a judgment delivered on 22nd May 2025, this court found the accused guilty and convicted him accordingly.
3. Upon conviction, the prosecution indicated that the accused was a first offender. The court directed that a pre-sentence report be filed prior to mitigation.

Presentence Report

4. According to the report, the accused was born in 1961 in Poror village, Lembus Central location. He attended school up to class 3, dropping out due to his parents’ separation. He thereafter moved to Eldoret to live with uncles who, however, did not support him. He later returned home and took up farming.
4. He is married to two wives and has six children with each. The accused claimed that on the material day, while walking home, he encountered the deceased who allegedly attempted to rob him of proceeds from the sale of a cow. He stated that he wrestled the deceased to the ground and beat him with a walking stick, after which they parted ways. He was later arrested and charged after the victim succumbed to injuries.



4. The accused denies the offence. He attributes the incident to the deceased and does not express remorse. He, however, pleads for leniency in sentencing.
4. The victim's relatives described him as arrogant and habitually violent, with a criminal past, and expressed strong opposition to forgiveness, urging the court to impose a deterrent sentence.
5. The area administrator confirmed knowledge of both families, noting that they are related. He identified the accused as a troublemaker in the community, stating that he has displayed antisocial behaviour even at his advanced age.
4. In light of these concerns, the probation officer recommended that the court deal with the accused in accordance with the law.

Mitigation

10. On 15th July 2025, Mr. Kiptoo, counsel for the accused, mitigated on his behalf. He submitted that the accused is 63 years old, has a large family, and is a first offender. Counsel stated that the accused acted in self-defence, regrets the incident, and has been in remand since 2021. He urged the court to consider a non-custodial sentence and to factor in the time already spent in custody.
10. Ms. Omari for the prosecution opposed a non-custodial sentence. She emphasized the extensive injuries sustained by the deceased, as revealed in the post-mortem report, which contradicted the claim of self-defence. She further highlighted the negative pre-sentence report, including the sentiments from family members and the local administration, and urged the court to impose a custodial sentence.

Determination

12. Under section 204 of the *Penal Code*, any person convicted of murder shall be sentenced to death.
12. I have considered the mitigation offered, including the accused's age, family responsibilities, and status as a first offender. I have also taken into account the unfavourable pre-sentence report, which describes him as arrogant, antisocial, and lacking remorse.
12. It is undisputed that a life was lost in a brutal manner. The deceased, aged 74, suffered fatal head injuries inflicted by a heavy blunt object, and both his legs were also severely injured. The accused has shown no remorse and continues to blame the deceased. While I appreciate that the accused is of advanced age, the circumstances and gravity of the offence, his conduct, and the community's views do not favour a non-custodial sentence.
12. The court must uphold the principles of retribution, deterrence, and rehabilitation. In my view, the accused should serve a custodial sentence to reflect on his actions and reform before reintegration into society.
12. Sentence
 - a. I hereby sentence accused to ten (10) years' imprisonment.
 - b. The period accused served to be computed in the sentence.
 - c. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 31ST DAY OF JULY 2025.

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RACHEL NGETICH

JUDGE

In the presence of:-

CA Elvis.

Mr. Kiptoo for Accused.

Ms. Omari for state.

Accused present.

