



**Republic v Kalanjo (Criminal Case 23 of 2023)  
[2025] KEHC 11335 (KLR) (31 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 11335 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDAMA RAVINE  
CRIMINAL CASE 23 OF 2023**

**RB NGETICH, J  
JULY 31, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ELIJAH MORO KALANJO ..... ACCUSED**

**SENTENCE**

1. The accused Elijah Moro Kalanjo, was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the charge were that on 24th September 2019, at Pombo village, Ngendalei Location in Mogotio Sub-County within Baringo County, he murdered Daniel Arap Kogo Kimengich.
2. By a judgment delivered on 15th May 2025, this Court found the accused guilty and convicted him accordingly.
3. Upon conviction, the prosecution informed the Court that the accused was a first offender. The Court directed that a pre-sentence report be filed prior to mitigation.

**Pre-sentence Report**

4. According to the report, the accused is the firstborn son of Moro Chebet and Sokomo Moro. He was born in 1973 in Kipnyunguny village, Ngendalei Location in Mogotio Sub-County. He is one of eight siblings. The family owns a 72-acre parcel of land used for farming and grazing.
5. Family members interviewed stated they were unaware of the events leading to the offence and did not know the deceased. They described the accused as a responsible businessman, with no known criminal record and harmonious relations with the community.



6. The accused attended Pombo Primary School up to Class 5, dropping out due to economic hardship. He later ventured into livestock trade in Rumuruti and surrounding areas. At the time of arrest, he was engaged in farming on a 15-acre parcel of land in Limuru near Subukia.
7. He is married to two wives — Pauline Karabata and Francisca Kabon Kimeu — and has 18 children. He denied the offence and claimed not to have known the deceased. However, he voluntarily surrendered himself to police when he learned of rumours implicating him.
8. The victim’s family expressed deep grief and bitterness. The deceased’s widow returned to her paternal home with some of the children, while others were taken in by extended family. The children remain school-going, and the family has struggled to provide for them. The victim’s sister, now caring for one of the children, underscored the enduring hardship and urged the court to ensure justice.
9. Community members interviewed described the accused as of good character, committed to family and business, and without any prior criminal record.
10. The area administrator confirmed the accused’s clean criminal background and generally positive community reputation.
11. The social inquiry also revealed allegations of a relationship between the deceased and the accused’s second wife, possibly a motive. The accused denied involvement in the killing but acknowledged surrendering to authorities when suspicions arose. The second wife could not be traced.
12. The accused’s family expressed ignorance of the incident and its circumstances. No reconciliation efforts had been made, and the victim’s family remained bitter and unreconciled.
13. The victim’s family reiterated their plea for justice, highlighting the fragmentation of their household and the difficulties faced by the children since the victim’s death.
14. The probation officer concluded that the accused, having shown no remorse and having denied responsibility, was not suitable for a non-custodial sentence and recommended that the matter be dealt with in accordance with the law.

### **Mitigation**

15. On 14<sup>th</sup> July 2025, during mitigation, Mr. Barasa, counsel for the accused, submitted that the accused is 52 years old, married with 18 children, and the family’s sole breadwinner. He prayed for leniency, asserting that the accused was remorseful and had expressed willingness to reconcile with the victim’s family, though they had declined. He urged the court to consider his status as a first offender and his community standing.
16. In response, prosecution counsel Ms. Omari submitted that the pre-sentence report was not favourable, citing continued bitterness from the victim’s family, hardship faced by the children, and lack of any gesture of reconciliation. She urged the court to impose a custodial sentence.

### **Determination**

17. Section 204 of the *Penal Code* provides that “Any person who is convicted of murder shall be sentenced to death.” However, following the Supreme Court decision in *Francis Karioko Muruatetu & Another v Republic* [2017] eKLR, the mandatory nature of the death sentence has been held unconstitutional, granting courts discretion in sentencing.
18. I have considered the mitigation, including the accused’s age, family obligations, and status as a first offender. I also consider his positive standing in the community.



19. However, I cannot ignore the fact that a life was lost under circumstances that were deeply painful for the victim's family. The accused has not shown remorse, continues to deny responsibility, and his family has made no effort at reconciliation. The pre-sentence report is negative, and the psychological and economic toll on the victim's dependents is significant.
20. In the circumstances, I find that a custodial sentence is warranted to meet the objectives of retribution, deterrence, and rehabilitation. The sentence must reflect the seriousness of the offence and the enduring harm caused.
21. Sentence
  - a. I hereby sentence the accused Elijah Moro Kalanjo to fifteen (15) years' imprisonment.
  - b. The period already spent in remand to be computing the sentence.
  - c. Right of appeal 14 days.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 31<sup>ST</sup> DAY OF JULY 2025.**

**RACHEL NGETICH**

**JUDGE**

In the presence of:-

CA Karanja.

Ms. Omari for state.

Ms. Barasa H/B for Mr. Mwaita for Accused.

