



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Katumo (Criminal Case 2 of 2017)
[2025] KEHC 12450 (KLR) (28 August 2025) (Sentence)**

Neutral citation: [2025] KEHC 12450 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL CASE 2 OF 2017**

**TM MATHEKA, J
AUGUST 28, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

RAPHAEL MUTIE KATUMO ACCUSED

SENTENCE

1. The convict Raphael Mutie Katumo was charged with 2 counts of murder contrary to section 203 as read with section 203 as read with section 204 of the Penal Code.
2. The particulars were that on 20/11/2016 at Mulala Village Iteta Sublocation Mulala Division, Nzau subcounty within Makueni County he murdered Angelina Mwikali Katumo and Peter Maundu.
3. On 30th June 2025 I found him guilty of each of the two counts of murder and convicted him accordingly on each count.
4. I sought for a pre-sentence report from PACs which has now ben availed.
5. I have read the report.
6. I have considered the mitigation by the convict through his counsel Mr. Hassan, and also what the convict told the court.
7. The report is self-contradictory. It begins be speaking poverty to the family. A family that has three teachers , a business lady, a mason among others, cannot be said to be poor. In one breath it states that the accused works with the County Government of Machakos , is married with two children, in the other breath that he is a casual laborer with a wife and three children. It is difficult to deal with such a report, and I direct once more that the report be served upon the County Director PACs , Makueni for his necessary action.



8. Counsel submitted in mitigation that the convict is a first offender, with three children and a wife . That he became born again while in prison, and undertook programs in Prison including Prisoner's Journey and has a certificate. Prays for leniency, is remorseful having been in custody for 9 years. Given the chance to speak the convict invited the court to consider his certificates and to do its work, in his words 'mahakama ifanye kazi yake na iniangalie vizuri'.
9. The sentence for murder is set out at s. 204 of the Penal Code, death.
10. The sentencing Policy Guidelines 2023 say the following about murder
 - 5.2.2 The harm caused by such an offence is immeasurable. The sentence is not a measure of the value placed on the life of the victim. Therefore, the assessment of aggravating and mitigating features relating to the offence focusses on culpability. However, the victims' family may wish to make a statement to the court about the impact of the offence.
 - 5.2.3 In addition to the generic features contained in the GATS, features particularly relevant to murder may include but are not limited to:
 - 5.2.4 Aggravating Factors in Murder Cases:
 - i. A significant degree of planning or premeditation.
 - ii. The mental or physical suffering inflicted upon the victim before death.
 - iii. Factors such as the type of weapon used, torture or inhuman or degrading treatment prior to death will be relevant.
 - iv. The use of duress or threats to enable the offence to take place.
 - v. The vulnerability of the victim e.g., due to age or disability.
 - vi. The fact that the victim was providing a public service or performing a public duty.
 - vii. Multiple victims or multiple perpetrators.
 - viii. Where the offence involved an abuse of trust.
 - ix. The relationship between the victim and the accused should be carefully considered.
 - x. Offence was motivated by, or there was demonstrated hostility to the victim based on his or her race, gender, sex, sexual orientation (or presumed sexual orientation), pregnancy, marital status (so called 'honour killings' for example), health status (e.g., murder occurred because of the HIV status of the victim, or albinism), ethnicity, culture, dress, language, birth, or religious orientation (or presumed religious orientation).
 - xi. A history of assaults, threats, or coercion upon the same victim.
 - xii. Absence of self-defence or provocation.
 - xiii. The offence involved deliberate drugging or stupefying of the victim.
 - xiv. Proven abduction or kidnapping of the victim before the murder was committed. Where a demand for ransom was made, signifying a financial motive.
 - xv. Concealing, destroying, or dismembering the body.



- xvi. Where the murder was conducted in furtherance of a ritualistic practice such as witchcraft.

5.2.5 Mitigating features relating to murder might include:

- i. Lack of premeditation.
 - ii. The offender suffered from a mental disorder or mental disability which lowered his degree of blame.
 - iii. In a case of joint enterprise, the role the offender played may be lower than his co-accused...
 - iv. That the offender was provoked.
 - v. That the offender acted to any extent in self-defence or in fear of violence.
 - vi. The age of the offender.
11. The mandatory nature of the death sentence is what was taken away by the Muruatetu case. That does not mean that a convict cannot be sentenced to death.
 12. In arriving at the sentence, I considered the mitigation by the convict, I have weighed the aggravating factors against the mitigating factors. Evidently the aggravating factors outweigh the mitigating factors in his case.
 13. The convicts case falls on the range of serious crime having the combination of harm and culpability calling out for the ultimate sentence considering that the convict, killed his elderly mother and his young nephew in cold blood and has demonstrated no remorse.
 14. I have considered the pain and suffering the deceased went through before each died, and especially the pain of the mother dying at the hands of her own son.
 15. I have also taken into account his age. I have in compliance with s. 333(2) of the Criminal Procedure Code taken into account the fact that he has been in custody since 2017.
 16. He is sentenced to 45 years imprisonment on each count with effect from the date of this sentence.
 17. The sentences will run concurrently
 18. Right of Appeal 14 days

DATED, SIGNED AND DELIVERED THIS 28TH AUGUST 2025

MUMBUA T MATHEKA

JUDGE

CA Ms. Mwanatumu

Mr. Hassan for the convict

Mr. Kazungu for state

