



**Republic v Mutindi (Criminal Case 022 of 2021)
[2025] KEHC 12437 (KLR) (28 August 2025) (Sentence)**

Neutral citation: [2025] KEHC 12437 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL CASE 022 OF 2021**

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

BETWEEN

REPUBLIC PROSECUTOR

AND

PURITY NZILANI MUTINDI ACCUSED

SENTENCE

1. The accused person was charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars were that that on diverse dates between 20/7/2021 and 6/8/2021 at Thome Village, Kee Location in Kilungu Subcounty within Makueni County jointly with others not before court – murdered Rueben Mutisya Mwau. After a full trial she was found guilty of manslaughter contrary to section 202 as read with Section 205 of the Penal Code and convict her accordingly.
2. S. 205 of the Penal Code provides that any person found guilty of manslaughter is liable to imprisonment for life.
3. The Sentencing Policy Guidelines 2023 provide for manslaughter from para 5.2.6 PARA 5.2.6 Where an unlawful killing is done without an intention to kill (or cause grievous bodily harm?), the offence of manslaughter may be made out.

In sentencing such cases, as with murder, the focus must lie primarily upon culpability. With manslaughter cases, the degree of culpability may vary widely, from the ‘one punch’ manslaughter to the case involving a prolonged campaign of domestic violence which ultimately results in the victim’s death. The focus must be on the offender’s actions and intentions at the time of the crime in assessing the degree of culpability. Sometimes a nuanced approach is called for. 5.2.7 In addition to the generic features contained in the GATS, some



features that are relevant to assessing culpability in manslaughter cases include, but are not limited to the following:

- i. Where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling short of grievous bodily harm e.g., one punch that caused the victim to fall and suffer a catastrophic and fatal brain injury.
- ii. Where death was caused in the course of an unlawful act that carried a high risk of death or grievous bodily harm which was or ought to have been obvious to the offender e.g., driving a motor vehicle dangerously through a crowded street.
- iii. Where death was caused in the course of committing or escaping from a serious offence.
- iv. Where the offender tried to conceal the offence by concealing, dismembering, or destroying the body.
- v. Where death was caused in the course of self-defence or defence of another (though not amounting to a defence).
- vi. Where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm e.g., the offender pushed the victim out of the way and the victim fell and suffered a fatal injury.
- vii. Where the offender's responsibility was substantially reduced by mental disorder, learning disability or lack of maturity. Examples might include the woman who suffers severe post-natal depression, or the war veteran who suffers post-traumatic stress disorder to the extent that he behaves in a way that is erratic and violent in the face of ordinary day-to-day stressors.
- viii. Where there has been a history of violence towards the victim by the offender, this might be relevant to sentencing.
- ix. Significant mental or physical suffering caused to the deceased.
- x. Where the offence involved use of a weapon.
- xi. Offence committed in the presence of children (particularly relevant to domestic violence deaths)

4. In this case the convict having injured the deceased in self defence proceeded to conceal the body
5. Following the guided approach to sentencing the convict here caused death, proceeded to conceal the body.
6. A pre-sentence report was filed and submissions made in mitigation. Mr. Kioko told the court that the convict was remorseful and regretted the actions that led to the death of her husband, that she had two children and had been in custody since her arrest on 5th August 2021. That while in custody she had undergone trainings mostly biblical as evidenced by the documents supplied to court, and urged the court to give her a second chance as she was first offender. The report from Remand Prison is that she has undertaken other courses including knitting and was best in her class.
7. The probation officer recommends a non-custodial sentence
8. In my view the convict's culpability was aggravated by the act of cutting the deceased not once and concealing the body in the hope perhaps it would never be found and no one would ever know what happened. Those actions by the convict take away the prospects of non-custodial sentence.



9. Having considered the foregoing, she is sentenced to 15 years imprisonment from the date of arrest 24th August 2021
10. Right of Appeal 14 days

DATED , SIGNED AND DELIVERED VIRTUALLY THIS 28TH AUGUST 2025

MUMBUA T MATHEKA

JUDGE

Convict present at Makueni Women Prison

Mr. Hassan holding brief for Mr. Kioko

Mr. Kazungu for the State

CA Ms. Mwanatumu

