



**Republic v Wangila (Criminal Case E016 of 2022)
[2024] KEHC 4558 (KLR) (26 April 2024) (Sentence)**

Neutral citation: [2024] KEHC 4558 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL CASE E016 OF 2022
REA OUGO, J
APRIL 26, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

EDWARD WANGILA ACCUSED

SENTENCE

1. Edward Wangila the accused person has been convicted of the offence of murder of Edward Wanjala. The murder happened on the 12th of June 2022 at Masaek village in Chengeyiwo location Kopsiro Sub-county within Bungoma County.
2. This court sought a pre-sentence report on the accused person. The accused is 39 years old and the deceased was his 2nd born. It is stated that he executed corporal punishment on the deceased under the influence of alcohol hence he was not in control of his faculties. His family members maintain that the incident was not intentional. The report indicates the accused is remorseful and denied having a preconceived mind to commit murder of his own son. That he is the first born and his mother and younger siblings look up to him for welfare support . he is married with 4 surviving children and his nuclear family is now hosted by his mother and the wife is burdened by family responsibilities and she for the husband’s release. The local administrators and the neighbours interviewed endorsed community-based measures assuring his safety in the community. The report states that the successful reconciliation and probably restitution were undertaken which has since eased tension between the offender and the deceased maternal family. Their analysis of the offender’s criminogenic needs reveals key contributory factors including alcoholism, poor anger management, irrational decision making and occasional antagonistic character that largely influenced his actions. The accused has a receptive home environment and he is unlikely to suffer community reprisal if immediately released. Although the matter involves members of the same family his family appear willing to allow his immediate re-



entry and reunion. The court has been asked to exercise its applicable discretion in passing a suitable sentence.

3. The accused's counsel stated as follows in mitigation; the accused is remorseful and seeks for leniency. He has had time to rethink his actions and he regrets his actions. He promises to improve himself and is a good and loving father of good character. He is the sole breadwinner of his family and he seeks a non-custodial sentence so that he can go back to his family to fend for them. The accused is a parent and the circumstances of this case are that he was disciplining the child and had no intentions of harming him and unnecessary force was used. His actions of the said date have resulted in a scar in his life which will take time to heal and that is enough punishment. He did not bury his son and he has not found closure, this is a mental torch to him as he did not say bye to his son. The accused has been in remand for two years.
4. The accused is a first offender. I have considered the pre-sentence report and the mitigation raised. I have also considered the character of the accused as stated in the presentence report.
5. The offence of murder is very serious. I have considered the guidelines on sentencing, the period the accused has been in remand, he has been in remand from June 2022 and the circumstances of this case. Though the accused maintains that he was merely disciplining the deceased who was his son, he did so with excessive force. The post-mortem report indicates that the deceased had a cervical spine fracture and that the cause of death was spinal shock from a cervical spine fracture. It was just a small beating. It was a thorough beating that resulted in a fracture at the neck, the deceased had a broken neck. The pre-sentence report is glowing however in my view the accused needs to undergo some punishment to deter him from ever taking such action against his children or any other person.
6. I therefore sentence the accused Edward Wangila to serve 10 (ten) years imprisonment to be served as follows; he will serve seven (7) years imprisonment and three (3) years' probation once he is released from prison on completion of the seven years imprisonment. Prisons shall consider any remission period the accused is entitled to. The accused shall therefore first serve the 7 years imprisonment followed by the three (3) years probation. He has a right of appeal within 14 days. It is so ordered.

Dated, signed and delivered at Bungoma this 26th day of April 2024.

R. OUGO

JUDGE

In the presence of;

Edward Wangila/ Accused -present

Miss Komora - Present

Miss Matere For the State

Wilkister - C/A

HCCRC NO. E016 OF 2022-RULING

