

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAPENGURIA.

CRIMINAL CASE NO. E007 OF 2025

REPUBLIC
STATE

- V E R S U S -

ALEX MUSANI.
ACCUSED

RULING ON SENTENCE

The accused, **Alex Musani alias Maiywo** 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 10/1/2025 at Makutano Town in West Pokot, Sub-county, murdered Josephine Wanjiku Gitau.

The prosecution and defence entered into a plea bargain negotiation's which resulted in a plea agreement dated 28/7/2025. The charge of murder was reduced to one of

Manslaughter contrary to section 202 as read with Section 205 of the Penal Code

By an information dated 28/7/2025, the substituted charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code was read to the Accused person to which he pleaded guilty and was convicted.

The matter is before me for purposes of sentencing.

The prosecution treated the accused as a first offender. Through his Counsel Ms. Cheruto, the accused's mitigation is that the court should consider that the accused pleaded guilty, he is remorseful and has reformed through biblical studies; ready to make amends. Counsel prayed for a non-custodial sentence because the accused has a young family which he wishes to help in their growth.

Sentencing is an exercise of the court's discretion as guided by the Constitution and the relevant laws on sentencing. The court is also guided by the Judiciary Sentencing Policy Guidelines, which are as follows;

- (i) Retribution: to punish the offender for his/her criminal conduct in a just manner;

- (ii) Deterrence; to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences;
- (iii) Rehabilitation; to enable the offender reform from his/her criminal disposition and become a law-abiding person;
- (iv) Restorative justice; to address the needs arising from the criminal conduct such as loss and damages;
- (v) Community Protection; to police the community by incapacitating the offender.
- (vi) Denunciation; to communicate the community's condemnation of the criminal conduct.
- (vii) Reconciliation; to mend the relationship between the offender the victim and the community
- (viii) Reintegration; To facilitate the re-entry of the offender into the society.

The Supreme court of Kenya in the case of **Francis Karioko Muruatetu & Another -V- Republic Petition 1/2015** added its voice to the guidelines. It stated that the court should also consider the following

- (1) Age of the offender;

- (2) Being a first offender;
- (3) Whether the offender pleaded guilty;
- (4) Character and record of the offender;
- (5) Commission of the offence in response to gender-based violence;
- (6) Remorsefulness of the offender;
- (7) The possibility of reform and social re-adaptation of the offender;
- (8) Any other factor that the court considers relevant.

The Accused pleaded guilty to the offence and therefore did not waste the court's time. He is a young person aged about thirty-one (31) years old. He is said to be a father of one and pleads for leniency because he has been transformed by the biblical studies and training, he has undergone while in remand and is ready to be integrated back in society. This court has also keenly read the presentence report in which the accused is portrayed in a very negative way. He is said to abuse drugs and alcohol and that he is very hot tempered and violent not only to the family but also involved in street fights. All those interviewed call for severe sentence and fear of revenge if released. Those interviewed also raised the fact that after the

incident he went into hiding till his arrest about four (4) months later.

Having considered all the above I find that the accused is not suitable for non-custodial sentence. I also take into account the aggravating factors that he attacked his sister-in-law for no good reason at all and ignored any intervention from the public till he battered her to death. I will sentence the Accused to fifteen (15) years imprisonment.

Sentence delivered, dated and signed in open court at Kapenguria this 29th day of September, 2025.

R. WENDOH

JUDGE

In the Presence of:-

Accused - present

Ms. Cheruto for accused.

Ms. Selina for Respondent

Juma/ Hellen Court Assistants