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90

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 110.....OF 2008

REPUBLIC

VERSUS

MARY WANJIRU NGURU

INFORMATION:

The Court is hereby informed by the Attorney-General on behalf of the Republic that the above named accused person(s) is/are charged with the following offence(s):-

STATEMENT OF OFFENCE:

Murder contrary to Section 203 as read with Section 204 of the Penal Code Cap.63 Laws of Kenya.

PARTICULARS OF OFFENCE:

MARY WANJIRU NGURU on the 2ND day of DECEMBER 2008 at Makongeni Phase VI plot number 182 Thika township in Thika District within Central province, murdered **MIRIAM NJAMBI KIMANI**.

DATED at **NAIROBI** this.....TH
11..... day of...DECEMBER...2008.

SIGNED.....*Esther M*.....
NAME: ESTHER MACHARIA
DESIG: **STATE COUNSEL**
FOR: **ATTORNEY GENERAL.**

NOTICE TO THE ACCUSED

Copies of the evidence which the prosecution intends to adduce at your trial are attached herewith. Copies of documentary exhibits may be inspected by yourself (if released on bail) or your Advocate by prior arrangements with the:-

Investigating Officer CPL NZIVE at THIKA police Station Within **CENTRAL** Province.

Telephone

ONYO KWA MSHTAKIWA/WASHTAKIWA

Makala za ushahidi ambao upande wa mashitaka unakusudia kutoa katika kesi yake zimefunganishwa hapa. Makala za ushuhuda wa makaratasi umewekwa ndani pamoja kwa kutumikia ukitakiwa. Na ushuhuda unaweza kuangaliwa na wewe mwenyewe (ikiwa umeachiliwa kwa dhamana na wakili kimbale kutokana na ofisa..... Wa uchunguzi Katika wa..... Nambari ya simu.....

SUB FILE

“1”

◆ Covering Report



COVERING REPORT

This is a case of Murder contrary to section 203 as read with section 204 of the penal code.

The brief circumstances surrounding this case are that on 2nd day of December 2008 at around 8.30 pm the deceased one Miriam Njambi Kimani left her sister's (D-2) house at Makongeni estate phase 10 to proceed to her residence in Ofafa estate. Instead she went to her ex-boyfriend's house (D-1) situated at Makongeni phase VI plot No. 182 where she found the accused Mary Wanjiru Ngũrũ as D-1 had gone out on duty. A brief argument ensued between the accused and deceased before the D-1 came in whereby he found the deceased seated in a sofa set and the accused person standing behind her with her hands crossed on the chest. The deceased then again picked a quarrel with the accused and immediately the accused descended on the deceased and stabbed her on the chest. The deceased called her ex-boyfriend name (D-1) as she touched where she had been stabbed as she leaned forward. The accused person then stabbed her at the back again.

D-1 then quickly moved forward and managed to grab the kitchen knife from her and threw it down as he punched and kicked her which made her fall on the floor. The deceased had already fallen on the ground with blood oozing vigorously from her body. The D-1 tried to hold the deceased and he got confused and screamed for help. D-3 and D-4 who are neighbours from the next doors came for assistance as D-1 rushed out to get a taxi. When they asked the accused person what had happened, she admitted that she was the one who stabbed her.

Moments later D-1 came with a taxi and was assisted by D-1 and D-4 amongst others to carry the deceased but as they reached at the plot gate, they realized that she had already passed on. Then D-1 who looked confused when he saw what had happened he disappeared from the scene as the area community policing security men under the command of D-5 took over. They informed the police officers about the incident and freed the accused person from the wrath of mob who had started beating her. She confessed to D-5 that she was the one who stabbed the deceased dead and gave the murder weapon to him.

Later on the police under the command of the Officer commanding Makongeni Police Post (D-7) arrived at the scene, interrogated the suspect who also confessed that she was the one who stabbed the deceased. Scene was photographed, accused person arrested, murder weapon (a kitchen knife with blood stains) recovered and body removed to Thika District mortuary. The accused person was escorted to Makongeni Police Post where she was charged with the offence.

On 3rd December 2008, D.C.I.O Thika Mr. Sunkuli SP instructed Cpl Nzive, PC Oteba and PC Guyo to take over the matter where the body was transferred from Thika District mortuary to Bishop okoye. Scene was revisited and statements recorded. On 5th December 2008 the suspect was taken to Thika District Hospital for mental assessment whereby she was examined by DR. Karau and found to be of good mental condition. Post mortem was done on 9th December and cause of death was found to be due to excessive loss of blood. Blood samples were taken for comparison against the murder weapon at Government Chemist.

SUB FILE

“H”

- ◆ ACCUSED RECORDS
- ◆ COPIES OF BONDS
- ◆ LIST OF WITNESSES
- ◆ LIST OF EXHIBITS
- ◆ PRISONERS PROPERTY
- ◆ NOTICE OF
INTENDED
PROSECUTION

POLICE 5

THE KENYA POLICE

POLICE CASE NO : 261/ 726 //08

O.B NO. 4/3/12/08

CHARGE SHEET

DATE TO COURT :

COURT FILE NO.....

Christian Names in full or name	Surname or Father's name		Identity Certificate No.	Sex	F	Nationality or Tribe	Apparent Age	ADDRESS(Include District and Location where applicable)
MARY WANJIRU	NGURU							THIKA DISTRICT
CHARGE	MURDER CONTRARY TO SECTION 203 AS READ WITH SECTION 204 OF THE PENAL CODE.							
COUNT:	<u>MARY WANJIRU NGURU</u> On the 2 nd day of December 2008 at Makongeni Phase VI plot number 182 Thika Township in Thika District within Central province, Murdered MIRIAM NJAMBI KIMANI							
If Accused Arrested	Date of Arrest	Without or With Warrant	Date Apprehension Report to Court	Bond or Bail and Amount		Is Application made For Summons to Issue		
YES	2/12/08	W/O		IN CUSTODY				
Remanded or Adjourned to								
Complainant and Address	REP THRO THE DECEASED MIRIAM NJAMBI KIMANI							
Witnesses ..	1. JOHN WAINAINA 2. CAROLINE WAMBUI 3. LUCY WAHITO 4. JANE GATHONI 5. CALLYPSO MULWA 6. OTHERS TO BE STATED 7.							
Sentence ..								
Court and date ..	HIGH COURT NBI							

.....

Officer in charge.....Police station.

LIST OF WITNESSES

- 1.D-1 JOHN WAINAINA MUMBI
P.O BOX 4647
THIKA
0723-795319
- 2.D-2 CAROLINE WAMBUI KIMANI
P.O BOX 1920
THIKA
0726-786811
- 3.D-3 LUCY WAHITO WAMBUNGU
MAKONGENI PHASE VI PLOT 110-13 *Present*
0713-867714
- 4.D-4 JANE GATHONI KANGONGA
P.O BOX 147
THIKA
0720-445412 *Present*
- 5.D-5 CALYPSON MUTISYA MULWA
P.O BOX 120
THIKA
0714-759966
- 6.D-6 NO. 67886 PC TIMOTHY SERONYA
MAKONGENI POLICE POST
P.O BOX 146,
THIKA
- 7.D-7 NO. 231946 IP SALIM HEMEDI
MAKONGENI POLICE POST
P.O BOX 146,
THIKA
- 8.D-8 ARTHUR KIMANI GICHARU
P.O BOX 104,
KIGUMO *Present*
0727-717722
- 9.D-9 NO. 58242 CPL JOHN NZIVE
THIKA C.I.D DIVISIONAL HEADQUARTERS,
P.O BOX 146,
THIKA
- 10.D-10 DR. MUNENE
C/O BISHOP OKOYE

Sgt Mark Wahito Wambugu

THE KENYA POLICE

DESCRIPTIVE FORM

*ACCUSED Person
 *WANTED Person
 *SUSPECTED Person } *Strike out whichever inapplicable.

Station CID Division ITIKWA P.C.R. or C.R. 261/726/08
 Name of Complainant/Injured person STATE THROUGH KENYA POLICE CID ITIKWA
 Nature of offence MURDER (Sec 203 ARDAN WITH SECTION 204 OF IPC)
 Name of *Accused/Wanted/Suspected person (if known) MARY WANJIRU
N/CHIEF

1. TRIBE OR RACE: (European, African, Asian, Somali, etc.)	<u>KIKUYU</u>
2. DISTRICT OR COUNTRY OF ORIGIN: (U.S.A., Kikuyu or Fort Hall, India, Somalia N.E.D., etc.)	<u>MURANGI SOUTH</u>
3. APPARENT RELIGION: (Christian, Mohammedan, Hindu, Sikh, Pagan, etc.)	<u>CHRISTIAN</u>
4. CASTE: (Brahmin, Pandit, Ismailia and low caste, etc.) In case of Somali, add if Dared, Isak or Hawiya, and give Section and Sub-section	<u>-</u>
5. AGE GROUP (Maina, etc.) AND/OR DATE OF BIRTH:	<u>1988</u>
6. LOCATION:	<u>Githuo</u>
7. SUB-LOCATION:	<u>Githuo</u>
8. PLACE OF BIRTH:	<u>Githuo</u>
9. NORMAL PLACE OF RESIDENCE:	<u>MURANGI DISTRICT</u>
10. OCCUPATION: (any known previous occupation to be included.)	<u>N/A</u>
11. PLACE OF OCCUPATION:	<u>N/A</u>
12. HEIGHT:	<u>5'6"</u>
13. BUILD: (stout, medium, thin, erect, stoops, etc.)	<u>MEDIUM</u>
14. FACE: (long, round, broad, smiling, scowling, wrinkled, etc.)	<u>LONG</u>
15. COMPLEXION: (fair, dark, pale, sallow, fresh, made up, albino; in case of Asian and African, light, very light, dark, very dark, red-brown, etc.)	<u>FAIR</u>
16. HAIR ON FACE: (colour, quantity, style, clean shaven, etc.)	<u>SHAVE</u>
17. HAIR: (colour, quantity, parting, bobbed, shingled, waved, cut, etc., and tribal characteristics)	<u>QUANTITY</u>
18. FOREHEAD: (high, low, bulging, vertical, receding, hollow temples, tribal marks, prominent veins, etc.)	<u>HIGH</u>
19. EYEBROWS: (colour, thick, thin, shape, pencilled, plucked, etc.)	<u>THIN</u>
20. EYES: (colour, large, small, squint, peculiarities, glasses, glass eye, blind, absence of eyes, etc.)	<u>LARGE</u>

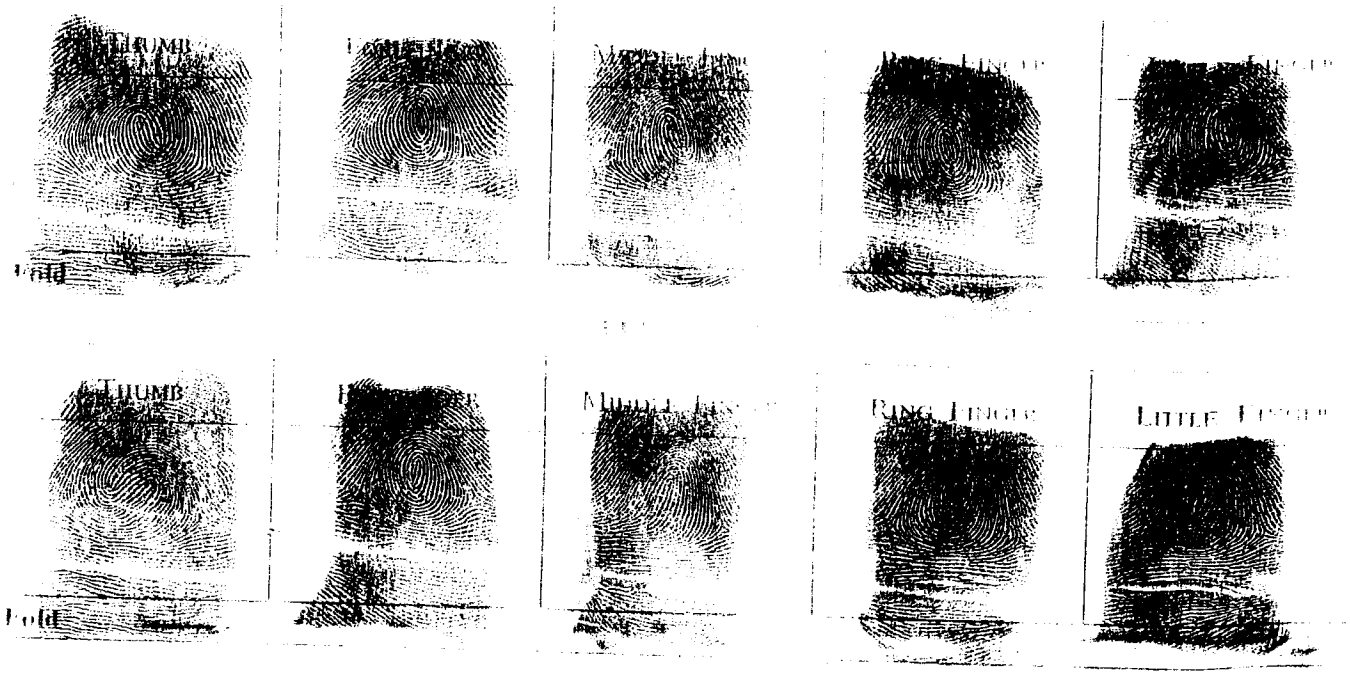
NOTE.—A separate form must be used for each person

Handwritten signature in a circle.

KENYA POLICE

MAR-1 WANSIRU NGURU

261/726/08

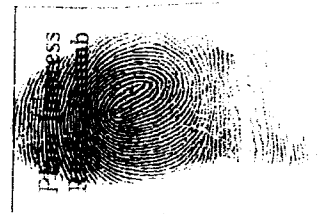


LEFT HAND
Plain impressions of the Four Fingers
taken simultaneously

RIGHT HAND
Plain impressions of the Four Fingers
taken simultaneously



INDEXED
RANK CPL
FORCE CID
NATIVE
9/12/08
TITIKA



Enclosures: 10
Remarks:
Remarks:
Remarks:
Remarks:

SUB FILE

"G"

COPY OF CHARGE
SHEET

SUB FILE

“F”

◆ INVESTIGATION
DIARY



INVESTIGATION DIARY

OB. 4/3/12/08

0125HRS

MAKONGENI

POLICE POST

PRISONER IN: It was reported by one namely Gallypson Mutisya Mulwa c/o cell phone 0714-759966 that one namely Miriam Njambi Kimani had been stabbed to death by one Mary Wanjiru Nguru. The incident took place at makongeni phase 6 plot no.5. The scene was visited and established the crime was committed as a result of love triangle. A kitchen knife was recovered soiled with blood while the accused person was re-arrested from members of the public and now being held for the offence of murder.

Signed by : PC Seroney

OB 37/3/12/08

11.30 AM

MAKONGENI

POLICE POST

EXHIBIT COLLECTED: Now to the post are Cpl Nzive, PC Oteba and PC Guyo all of Diverime Thika and collect one kitchen knife, one hand bag containing ID card, ATM card of Equity, voting card and one woman purse.

Signed by: PC Oteba

OB. 36/3/12/08

1700 HRS

MAKONGENI

POLICE POST

ACTION TAKEN : Now IP Salim and Cpl Veronica do take action against John Wainaina Mwangi of phase IV makongeni to be charged with the offence of murder vide OB 04/03/08. He is now searched and placed in cells by PC Ibrahim while appearing normal.

Signed by : PC Ibrahim

OB. 40/3/12/08

1757 HRS

MAKONGENI

POLICE POST

PRISONER TAKEN: Now to the post are Cpl John Nzive, PC Oteba and PC Guyo all collect one prisoner by the name John Wainaina Mwangi who is to be charged with the offence of murder collected while appearing normal.

Signed by: PC Oteba



OB. 17/5/12/08

11.30 am

MAKONGENI

POLICE POST

PRISONER COLLECTED: Cpl Nzive and PC Guyo now collect one Mary Wanjiru Nguru and takes her to district hospital for mental and age assessment later on to be transferred to Thika police station for safe custody

Signed by : PC Guyo

OB 31/5/12/08

12.40 PM

THIKA POLICE

STATION

PRISONER BOOKED : Cpl Nzive, PC Guyo and PC (D) Mohammed all now from makongeni police station where we had gone to take one prisoner namely Mary Wanjiru Nguru to Thika district hospital for mental assessment. She was examined by DR. Karau and now placed in cells with no complaint. She is charged with the offence of murder.

Signed by : Cpl Nzive

OB. 42/5/12/08

4.00 PM

THIKA POLICE

STATION

TEMPORARY REMOVAL : Cpl Nzive and PC Guyo now collect one Mary Wanjiru Nguru a suspect of murder to revisit the scene of to look for clues of any evidence, exhibit and to be conversant to draw a sketch plan.

Signed by: PC Guyo

OB: 48/5/12/08

17.15 PM

THIKA POLICE

STATION

PRISONER RETURNED: Cpl John Nzive, PC Guyo and PC (D) Musa all now book back from makongeni phase VI plot No. 182 where we had gone to revisit scene of murder. We have drawn a sketch plan of the scene and recorded statements of two witnesses. The suspect is now returned in cells with no complaint.

Signed by : Cpl Nzive

SUB FILE

“E”

- ◆ Charge & caution Statements
- ◆ Statements Under Inquiry
- ◆ Accused Plain Statement



NOTICE TO THE ACCUSED

ALIBI WARNING

1. If you intend to put forward an alibi defence at your trial, you are required by law to state that details in advance
2. An alibi defence arises where you wish to state that you are not guilty, where you wish to state that you were not present at the place where the offence was alleged to have occurred at the relevant time.
3. If you intend to put forward an alibi defence you must give the details;

EITHER;

(a) Verbally at the Magistrate's court at the time of committal proceedings


OR

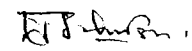
(b) In writing to the magistrate's court (with a copy to the nearest office of the Attorney General's chambers) within 14 days after the committal proceedings.

4. The Details require are:-

- (a) A brief summary of where it is that you say you were at the relevant time and
- (b) A list of witnesses (together with their addresses) whom you intend to call in support of the alibi defence.

5. **BE WARNED:** That if you do not supply this information as required you may be prevented from putting forward your ALIBI DEFENCE at the trial.

Signed by the accused 

R.O.C BY 



09/12/08
1000 HRS
CID OFFICE
THIKA

STATEMENT UNDER INQUIRY OF MARY WANJIRU NGURU

I Cpl John Nzive a police officer attached to CID Thika , I am inquiring into an offence of murder contrary to section 203 as read with section 204 of the penal code. In that on the 2nd day of Dec 2008 at Makongeni phase 6 plot No. 182 at Thika District within central province you murder Miriam Njambi Kimani.

Do you wish to say anything in answer to the above allegation?

I caution you that you are not obliged to say anything unless you wish to do so but whatever you say shall be put into writing and may be given in evidence.

The suspect having understood the nature of allegation wish to state.

Signed by : Mary Wanjiru

R.O.C CPL Nzive

STATUTORY DECLARATION

I am above 18 years of age, able to read and write. This statement is in Kiswahili language which I am able to read and understand. I make it knowing that I may be liable to prosecution if I state in it anything that I believe to be false or untrue.

Signed by: Mary Wanjiru

R.O.C :CPL Nzive

MARY WANJIRU NHURU
P.O BOX 291
THIKA
RESIDENCE
MAKONGENI PHASE VI
PLOT NO. 182

STATES AS FOLLOWS IN SWAHILI

Mimi ni Mary Wanjiru Nguru. Mkikuyu na nina miaka ishirini. Ninakaa na Bwana yangu hapo makongeni estate phase VI plot No. 182, na ningetaka kusema ifutayo.

Ninakumbuka mnamo tarehe 2nd December 2008 mwendo was saa 8.30 pm nilikuwa kwa nyumba nikiwa nimelala nikasikia mlango umebishwa, kufungua nikifikiria ni bwanangu, nikasikia mtu amenishika shingo, kuniambia kwamba ni mimi alikuwa anakujia. Nilimwambia akae chini, akakaa halafu akaongezea volume ya radio juu. Nilimwambia awache nimpingia bwana yangu simu, akaniambia hata yeye alikuwa na simu yake na anaweza kumpigia. Alisema yeye hakuwa na haja na yeye alikuwa anataka mimi.

Nilimwambia awache mimi nimbandilishe nguo za kulala na nikaingia kumbandilisha. Nilipombandilisha nilirudi mahali alikuwawepo na kuangalia nyuma nilipata akiwa ameinua kisu tayari aninduge. Nilichukua kwa haraka handbag yangu yenye ilikuwa kwa kitanda ili nijikige nayo, nilingoga nayo akanguka chini. Katika ile

(E-30)

hali ya kujikinga asinichome na kisu, ndio alianguka akajindunga nayo. Penye alianguka niliamka nikamshike kwa mkono alikuwa ameshikilia kisu. na katika ile harakati ya alikuwa anataka kuninduga ndio alianguka, kisu ikaenda side yake ikamnduga.

Baadaye ndio bwanangu akaingia, akatupata hapo, kaa marehemu anatoka ndamu, na akakimbilia taxi. Kambla taxi ifike alikuwa ameanga dunia. Baadaye police walikuja, wakachukua mwili na wakanishika na kunitia ndani.

Ningetaka kusema ya kwamba haikuwa mara ya kwanza kuja kwa vile alikuwa amekuja mara ya kwanza kuona yule alikuwa ameolewa, akaacha ameniambia atarudi tena. Baadaye niliama kutoka mlango wa kwanza hadi wa tano. Ningesema yakuwa mimi sikuwa na mujua marehemu. Hivyo ndivyo ningependa kusema

Signed by: Mary Wanjiru

R.O.C: Cpl Nzive

TRANSLATION

I am the above named person a kikuyu by tribe aged 20 years and a resident of Makongeni phase VI plot no 182.

I recall on 2nd December 2008 at around 8.30 pm I was deep asleep when I heard a knock at my door. I thought it was my husband John Wainaina who was knocking but when I opened the door I was met with a face of one unknown lady who all over a sudden held me by my neck. She told me that she had come for me, I told her to calm down and I offered to sit down where she agreed to sit. I told the lady I should call my husband to come where she objected. She told me that she also had a phone and she also could call him. I told her to give me time to change into good clothes since I was in a night dress. I went inside the bedroom and changed and found the lady holding a knife in her hand waiting to stab me. I took a bag that was in the house to defend myself with, I then knocked the lady down and then held her hand which was holding the knife we wrestled for sometime and as we wrestled, the lady fell on the knife where she was seriously injured on the chest. As we wrestled my husband arrived and found the lady profusely bleeding. My husband called a taxi and when then taxi came, the lady was already dead and the lady was not taken to the taxi.

After sometime police officers came and removed the body while I was arrested. I wish to state that, that was not the first time for her to come to my house. She came earlier on to see who had been married by my husband and told me that she would come again. Later on I shifted from first to 5th door. I also wish to state that I never knew the deceased.

That is all I can state.

Signed by: Mary Wanjiru

R.O.C: Cpl Nzive

CERTIFICATE

I certify that I have taken the statement voluntarily without use of force, threats or promise and it is correct.

Signed by: Mary Wanjiru

R.O.C: Cpl Nzive

SUB FILE

“D”

- ◆ Statement of
Prosecution
Witnesses

(D-10)

04/12/08
11.30 AM
CID OFFICE THIKA

ID CARD NO. 22198683
JOHN WAINAINA MUMBI,
C/O P.O BOX 4647
THIKA
0723-795349

RESIDENCE

MAKONGENI ESTATE
PHASE VI
PLOT NO. 182

HOME PARTICULARS

DIST: THIKA
DIV : GATANGA
LOC: KIGORO
S/LOC: NDUNYU- CHEGE
N.P.S: KIRWARA

STATUTORY DECLARATION

I am above 18 years of age, able to read and write. This statement is in English language which I am able to read and understand. I make it knowing that I may be liable to prosecution if I make anything I believe to be false

Signed by: John Wainaina

R.O.C: CPL Nzive

STATES AS FOLLOWS

I am the above named person a Kikuyu by tribe aged 27 years. I am a motor vehicle mechanic at Kimilili Garage near Elijah Kagiri AIPCEA church.

I remember on 2nd day of December 2008 at around 7.30 pm I was in my residential place when I was called by my customer namely Mr. Njenga who informed me his motor vehicle had developed a mechanical problem at J.J bar and he needed my assistance. I immediately proceeded there leaving my newly married wife in the house. I went back to my house at around 9.00 pm when I found my wife one Mary Wanjiru standing with her hands crossed at the chest while standing behind the sofa set and my ex-wife one Miriam Njambi seated on the sofa set in front of her. When I entered the room, they were not talking to each other but immediately after I got in my ex-wife Miriam Njambi told my wife Mary Wanjiru "Hii ni jasho yetu" meaning "this is due to our hard working". My wife responded to her that "Hii pia ni mali yetu" translated that was also their property.



Immediately after my wife Mary Wanjiru responded to her, she descended on Miriam Njambi and stabbed her right chest. She called my name as she bent, touching the place she had been stabbed. I quickly moved forward to get hold of wife and grab the kitchen knife from her but she quickly hit her again on her right shoulder. I immediately took the kitchen knife from my wife, threw it down and punched her twice and also kicked her whereby she fell on the cooking stove. I then raised alarm and two ladies who are my neighbours came in for assistance as I rushed out to get a taxi. I luckily got one at security office which is about 100 metres and we got back we found the ladies trying to render first aid to her. We tried to take her out to where the taxi was parked but outside the plot, she breathed the last sigh and passed on. When it was confirmed my ex-wife was dead I got scared and ran away, leaving the assailant in the house. I escaped to Muchetha area in Ithanga at a residence of my customer namely Daniel Kiilu. When I explained to what had happened, he advised me to go back and make the report since I was not the one who had killed Miriam Njambi and also the act was done inside my house. The following day I got back to Thika and since I was afraid to present myself alone to the police station, I was accompanied by my friends Mr. Nduati and Molo at my request to Makongeni police station where I was booked under the instructions of the OCS, since the case was being investigated by CID officers.

I wish to state that I got married to the deceased Miriam Njambi in the year 2006 until February 2008 when I left her and hired a house at Makongeni from Ofafa where we were staying. I used to go to her house at her request and spent the night with her until I got married to Mary Wanjiru about two months ago. Miriam Njambi the deceased had come to my house about three weeks ago and a quarrel with my wife but she was chased away by the other plot mates. I since then shifted from that room to a bigger one within the plot.

I also wish to state that the kitchen knife with police officers which was used by my wife to stab Miriam Njambi belonged to my house. I also wish to state that I saw my wife Mary Wanjiru stab Miriam Njambi twice and since it came as a surprise to me, I tried my best to prevent her from stabbing the deceased but it was too late for me.

That is all I can state at the moment.

Signed by: John Wainaina

R.O.C: CPL Nzive

D-2

04/12/08
3.40 PM
CID OFFICE THIKA

CAROLINE WAMBUI KIMANI.
P.O BOX 1920 THIKA
0726-786811

RESIDENCE
MAKONGENI ESTATE PHASE 10
PLOT NO. 128A

HOME PARTICULARS
DIST: THIKA
DIV :THIKA
LOC : MAKONGENI
S/LOC:MAKONGENI
N.P.S: MAKOMGENI

STATUTORY DECLARATION

I am above 18 years of age, able to read and write. This statement is in English language which I am able to read and understand. I make it knowing that I may be liable to prosecution if I make anything I believe to be false.

Signed by: Caroline Wambui

R.O.C: CPL Nzive

STATES AS FOLLOWS

I am the above named person a kikuyu by tribe aged 36 years, married with children.

I remember on 2nd day of December 2008 at around 8.30 pm when my late sister one Miriam Njambi who had been sent to my house by my husband to bring meat and milk, left my house to go to her residence. Yesterday at around 9.00 am I received a call from a friend who told me that my late sister had been stabbed with a knife and she was in hospital. I immediately went to my husband's shop where she was working and found her co-worker crying then I suspected Miriam was dead. I cried for about one hour and after being consoled by friends, we waited for my father, sisters and brothers and after they all came we proceeded to Thika Divisional CID Headquarters where we made the report at around 2.00 pm.

We were accompanied by a police officer to Thika District mortuary whereby we requested for the body to be transferred to Bishop Okoye mortuary. I checked the body and I saw that she was stabbed at her chest and there was a lot of blood stains all over her body. That evening we went back to CID office whereby we were accompanied by three officers to Makongeni estate where the murder occurred.



05/12/2008
1.00PM
CID OFFICE THIKA

LUCY WAHITO WAMBUGU.
NYERI DISTRICT
MUKURWENI DIVISION
GIATHUGU LOCATION
GIATHUGU VILLAGE
OR
C/O MAKONGENI ESTATE,
PHASE 6 PLOT NO. 182 DOOR NO.4
TEL: 0713-867714

STATUTORY DECLARATION

I am over 18 years of age. I am able to read and write. This statement is in English language which I understand. I make it knowing am liable to prosecution if I state in it anything which is false or which I don't believe to be true.

Signed by: Lucy Wahito

R.O.C : PC Gathecha

STATES IN ENGLISH

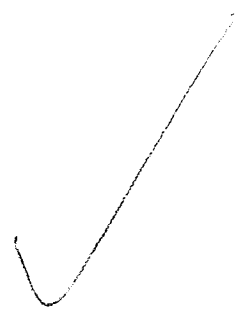
I am the above mentioned person and a house wife. I reside at Makongeni in a plot which has nine occupants.

I do recall on 2/12/2008 at about 21.30 hrs while inside my house which is a single room, I heard a knock and the door open and close to house No.5. The house belongs to a man known to me as Wainaina where he lives with a woman whom I presume is his wife known as chiru. I then heard the voice of another woman known as Njambi saying she had gone to collect what belongs to her. She does not reside in our plot. She had on another occasion came to the same house and quarreled Wainaina's wife. I heard Wainaina's voice but it was not audible. Then his wife interjected and told him and Njambi to get out of the house and talk there. I heard their door get opened and sensed that a fight may erupt. I also got out of my house where I saw Njambi fall down inside that house. At first I thought she had been pushed down but then I noticed blood oozing from her body. She tried lifting her head but it slumped on the floor. Wainaina initially wanted to grab his wife but then changed his intention. He called Njambi three times and when he got no response he screamed. He reacted in a confused manner urging us to get a car which could ferry Njambi to hospital. I and Wainaina then lifted this woman to the entrance of the plot. Curious people had already gathered at our plot including the estate's vigilante group. They all said Njambi was dead and police should be called. All this time chiru was quiet but she informed the vigilante security group that she was the one who had stabbed Njambi and the knife was inside the house. Later the police came, the body of the deceased was removed, chiru was arrested and the knife also recovered.

D-4
10

05/12/2008
5.00PM
MAKONGENI PHASE VI

JANE GATHONI KANGONGA
P.O BOX 147.
THIKA
0720-445412
RESIDENCE
MAKONGENI PHASE VI
PLOT 182



HOME PARTICULARS
DIST: KIAMBU
DIV: GITHUNGURI
LOC : KOMOTHA
S/LOC: THUITA
N.P.S: MARIGI

STATUTORY DECLARATION

I am over 18 years of age, able to read and write. This statement is in English language that I am able to read and understand and I make this statement knowing that I may be liable to prosecution if I state anything I know to be false.

Signed by: Jane Gathoni

R.O.C : CPL Nzive

STATES AS FOLLOWS

I am the above named person a Kikuyu by tribe aged 37 years single with children. I work with Delmonte as a seasonal worker and resides at the above estate.

I wish to state that on 2nd day of December 2008 I was asleep when I heard my neighbour at room number 5 scream for help. I woke up and opened my door and saw a lady lying down with blood oozing from her body at my neighbour's room No. 5, since the door to the room was wide open. Another neighbour a lady from next door No.4 known to me as Lucy was already outside her door.

She told me to go and assist the lady who was lying down as the one who stays in that room was standing at the door and she told us that she was the one who stabbed her. I got holds of one hand as Lucy tried the other hand but we could not lift her. She was already unconscious and blood oozing vigorously from her chest. I left her when I found that I could not assist and rushed out and I accompanied the rest of the plot mates to where the chairman of the security Mr. Mulwa was. When I came back then I found the lady who had been stabbed had been removed outside the plot and she was already dead. The lady who had stabbed dead the deceased had already been confined by security of the area outside until police were called.

I wish to state that the assailant was staying in that room No.5 with the man who called for assistance and I had seen her for a month. Later after the police arrived I excused myself and went back to my house. I was requested to record my statement to that effect. I also wish to state clearly that the assailant when what happened she told us that she was the one who stabbed the deceased.
That is all I can state at the moment.

Signed by : Jane Gathoni

R.O.C: CPL Nzine

B-5
11

05/12/2008
0430 HRS
MAKONGENI PHASE VI

CALYPSON MUTISYA MULWA.
CHAIRMAN- COMMUNITY POLICING
MAKONGENI PHASE VI,
P.O BOX 120, THIKA
TEL. 0714-759966

STATUTORY DECLARATION

I am above eighteen years of age. Able to read and understand. This statement is in English language which I am able to read, write and understand. I make it knowing that I may be liable to prosecution if I state anything that I believe to be false and do not believe to be true.

Signed by: Calypson Mutisya

R.O.C PC Guyo

STATES IN ENGLISH

I am the above named male adult aged forty six years (46) married with six children. I am currently the Chairman of the Community Policing at Makongeni phase VI plot 203.

I remember vividly on the 2nd day of December 2008, at around 9.30 pm two men came to me at my office, one by the name of Kasyoki who lives in plot No. 182 Door 8. They informed me that somebody has been stabbed in a house and requested for a Taxi to take the patient to hospital.

I then had no time to visit the said scene of murder because life was at risk but immediately sent my guards to the alleged scene and I went straight to plot 134 and called the Taxi man. As I was standing at the said plot Kasyoki rang me again and told me to leave it because the patient had already passed on.

I did not leave the Taxi man and both of us came to plot, scene of murder and found the dead person was at the main gate of the plot. I requested to see who committed this crime and I was shown by members of the public the accused one lady by the name of Mary Wanjiru Nguru who was near the main gate. She lived in a house No.5 of the same plot, she was being beaten by mob but with the assistance of my guards, we were able to repulse the mob. Afterwards I rang O.C.P.P Salim's No who said he was coming and the area chief. After some couple of minutes Salim came with one of his officers in a Peugeot of civilian Number plate.

(D-5m)

From there they went into house No. 5 where the offence was committed. I accompanied the officers in the house where I had already collected the kitchen knife prior to officers coming because the accused gave me the knife before even the officers came. The officers quizzed the suspect in front of us as to why she killed. She confessed that the dead lady has been there prior and that she had trailed her to her house and that she wanted to snatch her husband away from her.

We interrogated her and she brought the handbag of the deceased, containing the ID card, Equity card's pulse and other valid documents and some cosmetics which was collected by the officers.

I wish to state that the two reportees who were looking for taxi at our office are Kasyoki and Wainaina who is said to be the husband of the accused. I did not see him again after the patient was pronounced dead owing to shock and ran away for his dear life. At the gate where the body was lying the officers searched for cell phones and other documents relevant to the case but no cell phone was found.

After recovering the ID card and other documents, the OCPP rang the post police and a landrover came and collected the body to mortuary for storage.

Signed by: Calypson Mutisya

R.O.C : PC Guyo

D-6
111

04/12/2008
11.00 AM
MAKONGENI POLICE POST

NO. 67886 PC TIMOTHY .K. SERONEY.
C/O MAKONGENI POLICE POST,
P.O BOX 146.
THIKA

✓
PW 17

STATUTORY DECLARATION

I am over 18 years of age able to read and write. This statement is in English language which am able to read and understand. I make it knowing that I may be liable to prosecution if I make anything I believe to be false.

R.O.C: PC Timothy Seroney

STATES

I am the above mentioned police officer and currently attached to Crime investigation office.

I wish to state that I recall very well on the 2nd day of December 2008, I was assigned duty as a crime stand by for the day and night of the day. On that day Sgt Yusuf was the duty officer while our driver was PC Mohammed. At around 10.00 pm the driver was called through the phone by the officer in charge IP Salim and informed that we join to visit a scene of murder at Makongeni estate. We went and picked Inspector Salim in his house.

We proceeded to phase six plot 182 and on arrival we found members of the public gathered outside the plot. One lady was seated next to another one laying (deceased) and a lot of blood oozing from the abdomen. We noticed that she was already dead, we entered into the plot and followed blood drops which led us to room No.5 of the said plot where we found a lot of blood and established that the room belonged to the accused lady who was seated being held by members of the public. We were able to recover a kitchen knife stained with blood. The knife was with the community personnel one of them called Callypson Mulwa who is the head of the community policing within phase six. We went to check on the deceased and noted that she was stabbed on the right side of the abdomen.

We went back to the accused room 5 and found a small handbag, we searched the bag and we were able to find deceased National identity card and her names being Mariam Njambi Kimani. We interrogated the accused and she told us that she had stabbed the deceased, she told us that the deceased has been calling her on the phone abusing her, she told us that she lives with her husband namely Wainaina who was present during the incident. She further narrated that she knew that her husband had a love affair with deceased but he had firmly instructed her that to deal with the deceased if she comes to the plot.

04/12/2008
6.00 PM
MAKONGENI
POLICE POST

NO. 231946 IP SALIM HEMEDI,
MAKONGENI POLICE POST,
P.O BOX 146,
THIKA.

STATUTORY DECLARATION

I am over 18 years of age, I make this statement in English language which am able to read and understand. It's true to the best of my knowledge and believe and make it knowing that I may be liable to prosecution if I wilfully state in it anything which I know to be false or do not believe to be true.

R.O.C : IP Salim Hemedi

STATES AS FOLLOWS IN ENGLISH

I am the above mentioned police officer currently attached at Makongeni Police Post as the officer in charge.

I do wish to state as follows, on the 2nd day of December 2008 at about 10.00 pm I received a phone call from a Mr. Mulwa the Chairman Phase six Community Policing that a woman had been stabbed to death at phase six. I immediately called the Duty officet Sgt Yusuf and crime stand by officer PC Seroney who accompanied me to the scene. On arrival at phase six plot 182 we found a body outside the house which was covered with a blanket. I opened the blanket and found a body of a young woman lying in a pool of blood with a deep cut on the chest. The chairman of the community policing Mr. Mulwa gave a knife soiled with blood which was allegedly used to stab the deceased. We recovered the blood stained knife as an exhibit. Besides the body was a young woman by the name Mary Wanjiru Nguru who was suspected to have stabbed the deceased. We searched the hand bag of the deceased which we found in room No.5 of the same plot where the deceased had been stabbed. We found ID card bearing the name of the deceased as Miriam Njambi Kimani. In her handbag. Inside the room, there was a lot of blood, an indication that the deceased was stabbed there.

I interrogated the suspect Mary Wanjiru Nguru what happened and she informed me that the deceased whom she knew as the girlfriend to her husband came to her room and picked a quarrel with her. She got angered and picked a kitchen knife and stabbed her on the chest. Members of the public came to help the stabbed woman to hospital but died outside the house.

We arrested the woman and called scenes of crime personnel who photographed the scene and the body. The body was then removed to Thika District hospital mortuary for identification and postmortem. The suspect was arrested and taken to Makongeni police post where she was charged.

That's all to state.

Self- recorded by : IP Salim Hemedi.

1-8

05/12/2008
1230hrs
CID OFFICE THIKA

ARTHUR KIMANI WALLECE GICHARU,
P.O BOX 104, KIGUMO.
TEL NO. 0727-717722

DIST: MURANGA SOUTH
DIV : KIGUMO
LOC : KIGUMO
S/LOC: GACHOCHO
VILL: GACHOCHO

STATUTORY DECLARATION

I am above 18 years of age, able to read and write. This statement is in English language which I am able to read and understand. I make it knowing that I may be liable to prosecution if I make anything I believe to be false.

Signed by: Arthur Kimani

R.O.C : PC Guyo

STATES AS FOLLOWS

I am the above named male adult aged sixty nine years. I have a family of nine children including two of my deceased members of my household.

I remember vividly on the 3rd day of December 2008 at around 9.00 am, I got a telephone call from one Julius Gatharu who is my son in law that my daughter namely Miriam Njambi was found murdered the previous night on the night of 2nd December 2008.

During the time of calling I was at Gachochi, I was shocked and I decided to put on my clothes where I rushed to Thika via matatu, I came straight to Gatharu's shop where I met the caller at around 1200 noon where we accompanied each other to police station because I thought the accused was remanded at Thika. At around 1.00 pm I went to the mortuary where I viewed the body before transferring the deceased body to Bishop Okoye hospital for proper storage. After storing the body I went to my rural home where today I was called to record my statement to this effect. I want to put clear that the deceased was my daughter. She was my seventh born in my family.

That's all I can.

Signed by : Arthur Kimani

R.O.C : PC Guyo

D-9

07/12/08
10.00 AM
THIKA CID OFFICE

NO. 58242 CPL JOHN NZIVE,
C/O THIKA DIVISIONAL CID HQRS.
P.O BOX 146,
THIKA

0722-661776

STATUTORY DECLARATION

I am above eighteen years of age, able to read and write. This statement is in English language which I am able to read and understand. I make it knowing that I may be liable to prosecution if I state anything that I believe to be false.

R.O.C : CPL Nzive

STATES AS FOLLOWS

I am the above named police officer attached to Thika Divisional CID Headquarters performing investigation duties and I wish to state that on 3rd day of December 2008 at around 3.00 pm I was called by my DCIO Mr. Sunkuli SP and briefed me of a murder case which had happened the previous night. He further informed me that the accused person had been arrested and was being held at Makongeni Police Post and also the murder weapon (a kitchen knife) had been recovered. He therefore instructed me to take over the case from OCPP Makongeni together with PC Oteba and PC Guyo. Already PC Guyo had transferred the body of the deceased from Thika District hospital to Bishop Okoye.

Later in the evening I was accompanied by PC Oteba, PC Guyo and some of the family members to makongeni police post where I saw the suspect a lady by the name Mary Wanjiru Nguru in cells and took the murder weapon which had blood stains from PC Seroney who took us to the scene. When we got back to the station we found the husband of the assailant had come to police station and booked for interrogation one John Wainaina Mwangi. We then transferred him to Thika police station where we thoroughly interrogated him and recorded his statement and released him. I also recorded statements from the deceased sister where she was coming from when she went to meet death as well as her father. I revisited the scene on 5th December 2008 and drew a sketch plan. Also the same date I took the suspect to Thika District Hospital where her mental status was examined by DR. Karau and recorded statements from other witnesses from the plot and the security officer who reported the matter to police. She was found to be of stable mental condition.

I wish to state that my investigations revealed that the deceased who was ex-girlfriend to D-1 (John Wainaina) left her sister's house at Makongeni phase 10 saying that she was going to her residence at Ofafa but instead she went to makongeni phase VI plot No. 182 where her ex- husband was staying. On arrival she found the

D-1

accused person who is the current wife to D-1 and an argument ensued. D-1 came to the house later and found the deceased seated in the sofa set while his wife (accused) standing behind her with her hands crossed behind her chest. Immediately after a short argument, the accused descended on the deceased stabbing her on the chest using a sharp kitchen knife and also stabbed her again on the back. The deceased fell on the floor with blood oozing from her body vigorously. Then D-1 managed to grab the knife from the accused person and kicked her falling down and threw the knife down. He then got terrified and screamed for help. Two ladies who reside at the next door rushed for help as the husband (D-1) ran out to look for a taxi. When he came back they tried to remove the deceased to the taxi but as they reached at the gate to the plot they realized that the deceased was dead. The assailant had admitted to the plot mates that she was the one who stabbed her dead as well as to the police and security personnel of the area.

D-1 then got confused and escaped as the accused was detained by the area security men and the knife (murder weapon) was recovered and police were informed. Later the scene was photographed and body removed to mortuary. Accused person was arrested and taken to Makongeni police post.

I wish to state that the accused person was responsible for the murder of the late Miriam Njambi and there is no doubt in that. I therefore charge the accused person with the offence of murder. I also wish to state that I never knew the accused person before.

That is all I can state at the moment.

Self- recorded by : CPL Nzive.



SUB FILE

“C”

◆ Expert Report.

THE KENYA POLICE

P.3

MEDICAL EXAMINATION REPORT

PART I—(To be completed by Police Officer requesting examination)

From DELO THIKA
P.O Box 146Ref. OB 4Date 2/12/08To the MOH / THIKA Dist. Hosp.

Hospital/Dispensary.

I have to request the favour of your examination of:—

Name MARY WANJIRU NjiruAge 20 years (if known)Address P.O Box 291Date and time of alleged offence 2nd/12/08THIKA12/08 11:30 PMSent to you/hospital on the 5th / Dec 2008 under escort of C.P. JOHN Njiru
And P.C. Guyo and of your furnishing me with a report of the nature and extent of bodily injury sustained by him/her.Date and time reported to police 2nd / Dec 2008 at 10:00 PMBrief details of alleged offence THE ACCUSED PERSON STABBED THE
DECEASED AFTER A QUARREL, ON THE CHEST & BACK
OVER A BOYFRIEND. PLEASE KILLING HER ON THE SPOT.
PLEASE EXAMINE HER MENTAL STATUS AND AGE[Signature]
Signature of Police Officer

PART II—MEDICAL DETAILS—(To be completed by Medical Officer or Practitioner carrying out examination)

(Please type four copies from the original manuscript)

SECTION "A"—THIS SECTION MUST BE COMPLETED IN ALL EXAMINATIONS

Medical Officer's Ref. No. _____

1. State of clothing including presence of tears, stains (wet or dry) blood, etc. _____

NOT indicated

2. General medical history (including details relevant to offence) _____

N/A

3. General physical examination (including general appearance, use of drugs or alcohol and demeanour) _____

N/A

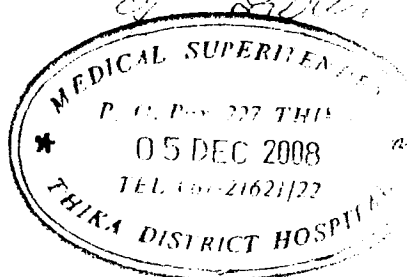


4. MALE ACCUSED OF ANY SEXUAL OFFENCE

(a) Describe in detail the physical state of and any injuries to genitalia especially penis.....

(b) Describe in detail any injuries around anus and whether recent or of long standing.....

5. Details of specimens or smears collected in examinations 2, 3, or 4 of Section "C" including pubic hairs and vaginal hairs.....

6. Any additional remarks by the doctor. Patient for MentalState examination.Appearance & behav. - well dressed, clean,well behaved.Report - easier to understand.Orientation - oriented to time, place, person.Speech - normal.Mood & affect - Depressed due to the fact that he has been arrested.Cognition - aware of his surroundings.Hallucination - none present.Memory - intact.Intuition - present.Conclusion: Patient is in a normal mental state.Age assessment: > 18 yrs (confirmed by presence of adult teeth).

Dr. Kera
Signature of Medical Officer/Practitioner

Date 5/12/08

POLICE 23A

THE KENYA POLICE

(Section 386 C.P.C.)

POST-MORTEM FORM

Reference No. 201/2008

POLICE STATION THIKA (C-15)

To: THE PATHOLOGIST/MEDICAL OFFICER

THIKA DISTRICT HOSPITAL

I have to request that you ascertain the cause of the death of MIRIAM NJAMBI KIMANI
 whose body is sent herewith under escort of PC Mohamed Guyo Shuru.

The undermentioned witnesses are able to identify the body to you:

(1) ARTHUR KIMANI (2) ROBERT GAKINYA

The body was found at (Place) Hs No. 182 on (Date) 2/12/08 at (Time) 1000pm

Date and Time of Death (if known) 2nd DEC. 2008 AT MAKONGEN PHASE VI at 9:30pm

The circumstances of the death are as follows:

(If natural causes is probable, give also a brief medical history, including the name and address of any medical officer consulted.)

The deceased met her death, after she was stabbed by one Mary Wanjiru, whose husband was her ~~the~~ boyfriend in her house at Makongon phase VI. The deceased died instantly.

Note.—If death from poisoning is suspected, the officer requesting the examination should also give the following details (see also page 4).

(a) Date and time of onset and duration of symptoms

(b) Main symptoms. Please put a tick against any of the following symptoms that apply:

Diarrhoea	Constipation	Shivering	Delirium
Vomiting	Cyanosis	Convulsions	Sweating
Thirst	Jaundice	Eye pupil dilated	Unconsciousness
Blindness	Loss of weight	Eye pupil contracted	Internal pains/cramp
Any Odour of breath	Fever		

(c) Details of food, drink or drugs taken before and after onset of symptoms including times and quantities of any medicine given whilst under treatment

(d) Were other persons affected

(e) Suspect poison, or class of poison

Signature Mohamed Guyo

(Police Officer)

Date 9/12/08

Note.—Complete form in quadruplicate. One copy to be retained by the station three copies to be supplied to Medical Officer. One is for his retention, one to be returned to Station with completed report, one to be forwarded with any exhibits submitted for toxicological or histological examination.

C-2
100

2

REPORT OF PATHOLOGIST/MEDICAL OFFICER

Reference No. Address

To: Officer in Charge,

..... Police Station.

Reference Body of WILLIAM N. NIMBA KIMANI

Place of Post-Mortem BISHOP OBOYE FUNERAL HOME

Date and Time of Post-Mortem 09/12/2008 at 11:30 AM

General Observations on Body—

Clothing: -

Sex: FEMALE

Race: AFRICAN

Apparent Age: 27 YRS

Nutrition: GOOD

Physique: GOOD

Height: 5' 7"

Post Mortem Changes and Assessment of Time of Death—

REFRIGERATED BODY

External Appearance of Body (give details of condition presence or absence of petechiae, cyanosis, etc., and position, nature and dimensions of all external injuries).

GOOD GENERAL CONDITION WITH

STAB WOUNDS — (1) LEFT SIDE OVER COSTS;
(PRE-THORACIC WOUNDS)
(2) LEFT BACK BEHIND THE
ELBOW.

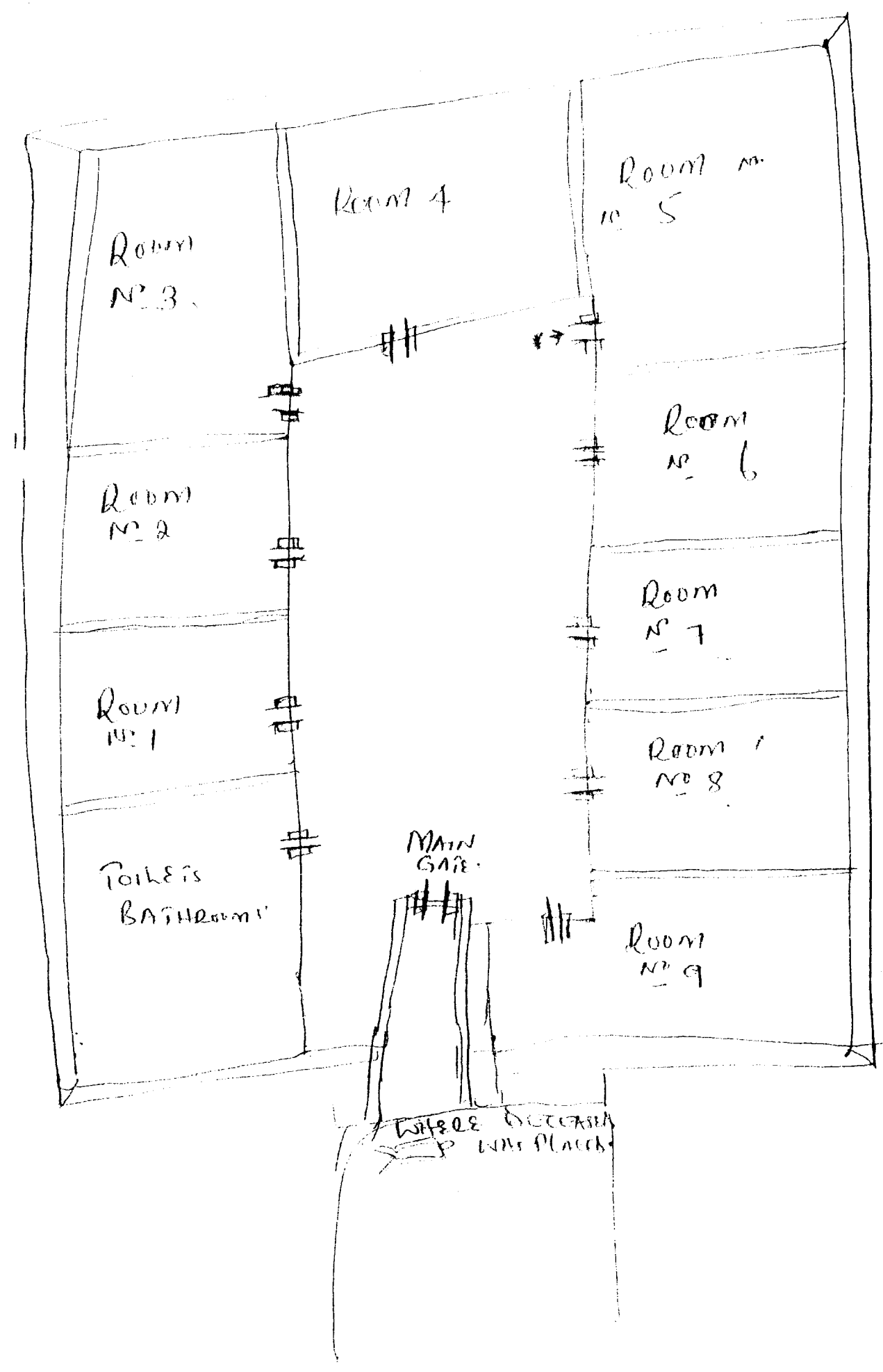
SUB FILE

“B”

- ◆ Photographs
- ◆ Sketch
Plans/Legends
- ◆ Copy of Documents

NYAIKONGENI PHASE VI SKETCH PLAN OF THE
Plot No 182

B-2



SUB FILE

“A”

- ◆ Initial Report
- ◆ OB Extract
- ◆ Crime Report
- ◆ Subsequent Reports
- ◆ Amendments

THE KENYA POLICE

CR 261/726

(A-1)
108CRIME AND INCIDENT REPORT

DATE 9/12/08 TIME 7.00 AM
 OFFENCE MURDER CONSIDERED TO SECTION
203 AS READ WITH SECTION 204
OF THE PENAL CODE.

- (a) POLICE STATION C.I.D
 (b) DIVISION ITIKWA
 (c) O.B NO 4/3/12/08 TIME 0136 HRS CR 261/726/08
 (d) DATE AND TIME OF INCIDENT 2nd/12/08 AT 9.30 PM
 (e) PLACE MAKONGENI MAP REF BT 856669
 (f) NAME AND TRIBE OF COMPLAINANT STATE THROUGH KENYA POLICE C.I.D
 (g) DESCRIPTION OF INCIDENT ON THE MATERIAL
DATE AND TIME THE DECEASED ONE MIRIAM
NJUMBI KIMANI HAD GONE TO HIS EX-BOYFRIEND'S
RESIDENCE WHERE SHE FOUND THE ASSAILANT. ^{AT SHORT}
~~A GUNFIGHT ENDED~~ ^{AND SHE} ~~WAS KILLED~~ ^{WAS} ~~OVER THE~~ ^{WAS} ~~BOY-FRIEND ONE~~
JOHN WANJIAU WHEREBY THE ACCUSED
PICKED A KITCHEN KNIFE AND STABBED THE
DECEASED ON THE CHEST KILLING HER ON
THE SPOT. MATTER WAS REPORTED TO
MAKONGENI P.P.O. WHERE SCENE WAS VISITED
AND PHOTOGRAPHED. ARREST WAS MADE AND THE
MURDER WEAPON (A KITCHEN KNIFE) WAS
RECOVERED. BODY WAS REMOVED TO MURURU ITIKWA.
 (h) NAMES AND TRIBE OF ACCUSED PERSON IN CUSTODY.....
MARY WANJIAU NGURU A 20 YEARS OLD FEMALE
KIKUYU FEMALE IN CUSTODY. P.B.C
 (i) ACTION TAKEN.....
 (j) ANY PREVIOUS REPORT SIGNAL WAS SENT.
 (k) INVESTIGATING OFFICER COL NZIVE, PC OCEBA & PC GUND
 (l) PERSON PASSING COL NZIVE
 (m) RECEIVING OFFICER.....