



**Republic v Tirop & 8 others (Criminal Case 32 of 2016)  
[2024] KEHC 13233 (KLR) (31 October 2024) (Sentence)**

Neutral citation: [2024] KEHC 13233 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE 32 OF 2016  
JK SERGON, J  
OCTOBER 31, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**SIMION KIBII TIROP & 8 OTHERS & 8 OTHERS & 8 OTHERS & 8 OTHERS  
& 8 OTHERS & 8 OTHERS ..... ACCUSED**

**SENTENCE**

1. The Accused herein, were charged with the offence of murder contrary to Section 203 as read with section to section 204 of the *Penal Code* Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 13th and 14th day of September, 2016 along Brooke-Kapsaos Murram Road in Kericho East Sub County within Kericho East Sub-County within Kericho County, jointly murdered Kennedy Kipchirchir Koech.
2. The matter proceeded for trial and this Court found that Luka Ombima Musiaba, Michea; Kipkoech Too, Edwin Shiatujha Luyiakha, David Kipchirchir Bett, Kefa Adero Machi, Alfred Kidali and Mikaduli Ochiel Omukoko had no case to answer and acquitted them under section 210 of the *Criminal Procedure Code* Cap 75 Laws of Kenya and convicted Simion Kibii Tirop and Francis Njeri Inonda for the offence of manslaughter Contrary to Section 202 as read with section to section 205 of the *Penal Code* Cap 63 Laws of Kenya. Upon convicting the accused persons for the aforesaid offence, this court directed the county probation officer to file pre-sentence reports and also invited the accused to make submissions in mitigation to guide the court in determining the appropriate sentence to be meted out.
3. Mr. Mwita, the Learned Counsel for the Accused, submitted that Simon Kibii Tirop (1st accused) is a 47 year old man, the sole breadwinner and provider to 5 children who wholly depend on him. The 1st accused solely provides for medication and a caregiver stipend to cater for his ailing mother.



4. Learned Counsel further submitted that Francis Njeri Inonda (6th accused) is a 48 year old man, with 7 children who solely depend on him for their school fees and daily upkeep.
5. Learned Counsel also stated that the 6th accused is a deeply religious man, an avid member of the Pentecostal Assemblies of God Church and participates in all church activities.
6. The Learned Counsel stated that the accused persons are deeply remorseful for the events that culminated in the demise of the deceased. The Learned Counsel submitted that the accused have been outstanding members of society throughout the lengthy trial and they neither absconded court nor interfered with the witnesses.
7. The Learned Counsel further submitted that the accused persons are first offenders with no previous record of infractions and offences. The Learned Counsel urged this Court to exercise leniency and consider a non-custodial sentence and that the accused are willing to abide by any conditions precedent that this Court may deem fit to impose.
8. Mr. Musyoki, Learned Assistant Director of Public Prosecutions, on his part submitted that the accused ought to be treated as first offenders.
9. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer in respect of Simon Kibii Tirop, the 1st accused person. In the aforesaid report, it is noted that prior to his arrest, the offender was a security guard at Unilever Company Limited. The accused has no history of criminality.
10. On the material day, the offender was in the company of other security guards patrolling the company tea farms, when they caught the victim illegally harvesting tea. The victim escaped and jumped the perimeter wall into the nearby Rays Hotel, when the victim was handed back to them he appeared to have been assaulted. The offender speculated that the victim may have succumbed to injuries sustained from beatings by the security guards at Rays Hotel.
11. The offender believes he was implicated just because he was part of the security guards on patrol who got hold of the victim on the material night.
12. The family of the offender are in support of a non-custodial sentence in order to afford him the opportunity to fend for his family and his aged and sickly mother.
13. The family of the offender had reconciled with the deceased's family and that there's no animosity between the two families. The family of the deceased are not opposed to a non-custodial sentence.
14. The offender enjoys strong ties in the community, they harbour no grudge against the offender. The offender has been on bond with no hostility directed to him. The community and the local administrator are in support of a non-custodial sentence in order to give the offender the chance to reintegrate with the community and to take care of his family.
15. Based on the findings of the social inquiry and assessment, the probation officer found the 1st accused is a suitable candidate for a non-custodial sentence and recommended the offender for placement on a probation order for a period of three years subject to this court's verdict.
16. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer in respect of Francis Njeri Inonda, the 6th accused person. In the aforesaid report, it is noted that prior to his arrest, the offender was a security guard at Unilever Company Limited having worked for a period of 27 years and rose through the ranks. The accused has no history of criminality.



17. On the material day, he was informed about the arrest of the victim and two others who were found illegally harvesting tea at Unilever Company Limited, he found the victims under custody of the security personnel.
18. He noticed that the victim appeared to have been beaten and when he asked how he received the beatings he was informed that the victim had escaped to a nearby hotel facility where he was beaten by the hotel security guards before they handed him back. The offender and his colleagues then escorted those they had apprehended to the police station. The offender was arrested and charged with the instant offence.
19. The offender believes he was implicated just because he was part of the security guards who had escorted the victim to the police station. The offender having worked with Unilever for 27 years does not have prior records and has never been associated with petty crimes.
20. The offender is apprehensive that he will lose his work service benefits in the event he is committed to a custodial sentence. The offender is willing and ready to abide by the terms of this Court upon placement on a non-custodial sentence.
21. The family of the offender are in support of a non-custodial sentence in order to afford him the opportunity to fend for his family. The family of the deceased are not opposed to a non-custodial sentence.
22. The offender enjoys strong ties in the community. The community and the local administrator are in support of a non-custodial sentence in order to give the offender the chance to reintegrate with the community and to take care of his family.
23. Based on the findings of the social inquiry and assessment, the probation officer found the 6th accused a suitable candidate for a non-custodial sentence and recommended the offender for placement on a probation order for a period of three years subject to this court's verdict.
24. This court has considered that the accused persons were arrested on 17th September, 2016 soon after committing the instant offence, they were arraigned in court and remanded. The accused made an application for reasonable bail/bond terms, the accused were granted bond of Kshs. 200,000/= with a surety of similar amount, consequently, Simon Kibii Tirop (1st accused) was released on 27th October, 2016 whereas Francis Njeri Inonda (6th accused) was released on 19th October, 2016.
25. I have considered the circumstances of the offence, submissions in mitigation and have further considered the contents of the pre-sentence report filed by the county probation officer in respect of the accused. I am satisfied that the appropriate sentence in this case should be non-custodial. Consequently, I hereby sentence the Accused namely: Simon Kibii Tirop and Francis Njeri Inonda to serve 3 years on Probation under the supervision of the Kericho County Probation Officer.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 31ST DAY OF OCTOBER, 2024**

**J. K. SERGON**

**JUDGE**

In the presence of:

C/Assistant – Rutoh

S/Counsel – Mr. Musyoki

Accused – Present in Person



