



**State v Omondi & another (Criminal Case E033 of 2021)
[2023] KEHC 394 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 394 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E033 OF 2021
RE ABURILI, J
JANUARY 30, 2023**

BETWEEN

STATE PROSECUTION

AND

PAUL PIUS OMONDI 1ST ACCUSED

JACKSON OKONG'O OKOTH 2ND ACCUSED

RULING

1. The accused person herein Paul Pius Omondi was convicted of the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*, after the court found him not guilty of the offence of murder. His co-accused Jackson Okongo Okoth was found not guilty of the offence of murder or manslaughter and was acquitted and set at liberty.
2. The accused has mitigated and his counsel too has mitigated which this court has considered. He is a first offender, he is remorseful. He is 23 years old, unmarried and regrets committing the offence. He pleads for leniency in sentencing and blames his actions on alcohol which he swears he will not partake again as he has learnt lessons in prison. He also readily admits his mistakes and the findings by the probation officer as per the prebail assessment report filed on December 17, 2021 by Mr Milton Kasera.
3. Punishment for manslaughter, upon conviction is up to life imprisonment. The court has discretion in sentencing having regard to the circumstances of the case, the age of the accused, and his mitigations as well as the objects and purposes of sentencing as contained in the Judiciary Sentencing Policy Guidelines.
4. The deceased was aged 38 years and was unmarried. He left behind his mother and father and six siblings. He was a discharged prison's officer after serving for 5 years. Reasons for termination of his employment were not known.



5. There is no justification for the unlawful killing. Life is sacrosanct and article 26 of the [Constitution](#) guarantees every person the right to life. The accused person is however remorseful and pleads for leniency of the court in sentencing. He prays for non-custodial sentence. He has been in prison custody since his arrest on October 31, 2021 not able to raise bail granted which is now one year and three months less one day. He has learnt his lessons in prison and although he wished to Plea bargain for a lesser charge but no agreement was reached and hence the case had to proceed to full trial.
6. Taking into account all the above and circumstances under which the offence herein was committed as per the judgment of this court rendered on 23/1/2023, I hereby exercise discretion and sentence the convict Paul Pius Omondi to serve probation for three (3) years from the date of this sentence and not to reoffend or breach probationary terms and should he breach the same, he shall be brought before this court for custodial sentence to be imposed which as I stated earlier, is up to life imprisonment. I so order.
7. This file is hereby closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 30TH DAY OF JANUARY, 2023

R.E. ABURILI

JUDGE

