



REPUBLIC OF KENYA



**Republic v Osura (Criminal Case E016 of 2021)  
[2023] KEHC 1638 (KLR) (28 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 1638 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE E016 OF 2021  
JN KAMAU, J  
FEBRUARY 28, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**STEPHEN OPIYO OSURA ..... ACCUSED**

**SENTENCE**

1. The accused person was charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code* Cap 63 (Laws of Kenya). Upon entering a Plea Bargaining Agreement, the court has now reduced the charge to manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code* and convicted him accordingly.
2. I have looked at the facts of this case and noted that the Accused person and the deceased's family were good friends before the material date of 22<sup>nd</sup> May 2021. The facts in the Plea Bargaining Agreement are scarce and it is not possible to understand why the Accused person killed the deceased.
3. From the Pre-Sentencing Report by William O. Otieno that was dated 14<sup>th</sup> February 2023 and filed on 15<sup>th</sup> February 2023, the Accused person had been behaving in a strange manner preceding the material date. He had packed his bags saying he was tired of Kisumu only to end up killing two (2) children. This case for the offence of attempted murder PMCC No E459 of 2021 was pending at Winam Law Courts.
4. The Probation Officer observed that something appeared to have been disturbing the Accused person but he had not explained the same. The deceased was found lying in a pool of blood. The Post mortem Report showed that the deceased died of severe haemorrhage secondary to penetrating injury to the neck due to a stab wound.
5. I have considered the mitigation by the counsel for the Accused person that he was a first offender, that he was young with a young wife and child, that his brother had dropped out of school due to lack of fees that he was paying for him, that he was remorseful of his actions and that he had undertaken



theological studies which he used to impart knowledge to others. I have also considered the mitigation by the State counsel that a young life was lost and secondary victims some whom were still traumatised by the events.

6. The court has noted the views of the Probation Officer that the Accused person co-existed well with others before the incident occurred.
7. Taking into account that the Accused person was remorseful, that he was a first offender and that he had saved this court judicial time by entering into a Plea Bargaining Agreement but bearing in mind that the life of the deceased was lost needlessly and that the reasons for killing the deceased has remained unexplained, I am of the considered opinion that a sentence of twelve (12) years would be adequate in line with retributive justice. I hereby sentence the Accused person to twelve (12) years imprisonment. The period between 18<sup>th</sup> June 2021 and 27<sup>th</sup> February 2023 shall be taken into consideration at the time of computing his imprisonment terms which commences today.
8. Orders accordingly.

**DATED AND DELIVERED AT KISUMU THIS 28<sup>TH</sup> DAY OF FEBRUARY 2023**

**J. KAMAU**

**JUDGE**

