

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**WESLEY KIPKOECH  
KEMEI.....ACCUSED**

**SENTENCE**

1. **Wesley Kipkoech Kemei**, the Accused herein, was convicted upon a plea of guilt for the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code pursuant to a plea agreement dated 4<sup>th</sup> October, 2022. The particulars of the offence are that on 15<sup>th</sup> October, 2019 at Timbilil Sub-Location, in Kipkelion Sub-County within Kericho County, the Accused murdered Alice Chepkoech Mutai.
2. Upon conviction, this court invited the Accused to submit in mitigation. Miss Ngetich learned counsel for the Accused submitted that the Accused has a young family, was remorseful for the offence committed and promised not to indulge in alcohol. She further added that the traditional reconciliation process had taken place and that his family and that of the deceased were ready and willing to receive

him back. Miss Ngetich, therefore urged the court to consider a non-custodial sentence.

3. Mr. Musyoki learned Assistant Director of Public Prosecutions asked this court to treat the accused person as a first offender since he did not have the accused person's past criminal record. Mr. Musyoki pointed out that the accused did not deserve leniency considering the circumstances and the manner in which the offence was committed. Mr. Musyoki further pointed out that the accused armed himself with a panga, a lethal weapon, followed the deceased and assaulted her. He therefore urged the court to consider a custodial sentence.

4. This court also called for a pre-sentence probation report. I have considered the pre-sentencing report prepared and filed by the Kericho County - Probation Officer dated 16<sup>th</sup> May, 2023. In the aforesaid report it is noted that the accused has a wife and they are blessed with three young children who are all in school. It is also noted the accused admits to having committed the offence albeit under the influence of alcohol, that on the material day the deceased and her friend entered into his business premises without his

consent whilst he was napping, he woke up, found the two taking goods from his shop, he confronted the two and an altercation ensued which resulted in the demise of the deceased.

5. In the Pre-sentence report, the accused's family are said to regret the circumstances under which the offender committed the offence, they stated that the family performed the necessary cleansing rituals and reconciliation achieved, they were ready and willing to support with the rehabilitation of the accused. The accused's family therefore urged the court to consider a non-custodial sentence.
6. The deceased's family revealed that they were related to the offender's family and they regret the circumstances under which their kin lost her life, however they faulted her for entering the accused's premises late in the evening without his consent. The deceased's family stated that they did not have an acrimonious relationship with the accused, furthermore, they welcomed the idea of reconciliation and they were therefore in favour of a non-custodial sentence.
7. It is also indicated in the pre-sentence Probation report by the area assistant chief on behalf of the local community and

the administration that the community did not harbor hostility against the offender and that he was out bond for a long period of time and the community was at ease. The county probation officer therefore recommended for a non-custodial sentence, and further that the accused herein was a suitable case for placement on probation subject to the court's discretion.

8. Having considered the submissions in mitigation and having further considered the pre-sentence probation report, it is apparent that in the circumstances of this case that a non-custodial sentence is appropriate.

9. The accused was arrested on 16<sup>th</sup> October, 2019 and was placed in custody. He was eventually released on 24<sup>th</sup> September, 2020 on a bond of Kshs. 200,000/= with one surety similar amount after spending eleven (11) months in custody. The period the accused person spent in custody is taken into account in determining the appropriate sentence.

10. In the end I hereby sentence the accused namely: **Wesley Kipkoech Kemei** to serve 4 years imprisonment.

Dated, signed and delivered at Kericho this 31<sup>st</sup> day of May, 2023

In the presence of:

C/Assistant - Rutoh

Prosecutor - Mr. Musyoki

No appearance for Miss Ngetich

Accused - Present in Person