



**Republic v Karanja (Criminal Case 04 of 2018)
[2023] KEHC 19180 (KLR) (27 June 2023) (Sentence)**

Neutral citation: [2023] KEHC 19180 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 04 OF 2018**

**J WAKIAGA, J
JUNE 27, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

THOMAS NYOIKE KARANJA ACCUSED

SENTENCE

1. The convict was initially charged with the offence of murder Contrary to Section 203 of the [Penal Code](#) and by a plea bargain agreement entered into between the prosecution and the accused and accepted by the Court on November 24, 2022, the said charge was reduced to manslaughter Contrary to Section 202 as read with Section 205 of the [Penal Code](#) to which the convict pleaded guilty and was convicted on his own plea of guilty.
2. In compliance with the Judiciary Sentencing Policy Guideline, the Court called for presentencing report, wherein it was stated that the convicts father died in the year 1993 due to suicide and that after his call seven, the convict dropped out of school due to financial constraints and was employed as a harder. He later joined his father on the farm before joining scrap metal business for three years before he started picking avocados at mojarra as at the time of arrest.
3. It was stated that the victim was the convict's elder brother and that on the material day both were drunk when a quarrel ensued and the deceased hit the convict with a pair of scissors who in retaliation hit him on the head. He refused to seek medical intervention at the request of their mother.
4. On the convict's attitude towards the crime, it was stated that the same was extremely remorseful having committed the offence under the influence of alcohol. The family had since forgiven him and were willing to help him resettle in as a small-scale trader, while the area Chief was opposed to his release to the community on the grounds that he had been troublesome before his arrest and therefore proposed a custodial sentence for prison rehabilitation.



5. It was recommended that the Court take into account the Chief's and community sentiments while making a determination on sentence.
6. In mitigation, the convict through his Advocate Ms Githinji, stated that while in custody, he had learned several trades which he will put into use and that the offence was committed while both were intoxicated and that he had since been rehabilitated from drug abuse. He had been in custody for a period of six years which should be taken into account while passing sentence. He was willing to take up parental responsibility for his two children who had been under the care of their mother.
7. On behalf of the state, Ms Gakumu stated that manslaughter is a serious offence which carries a life imprisonment sentence and that the Court should take into account the Chief's sentiments by mating out a deterrence sentence.

Determination

8. The sentencing objectives are now well settled in Kenya having been captured in the Judiciary Sentencing Policy objectives as follows:
 - (a) Retribution – to punish the offender in a just manner for his criminal conduct
 - (b) Deterrence – to deter the offender from committing a similar offence
 - (c) Rehabilitation – to enable the offender to reform
 - (d) Restorative –to address the needs arising from the criminal conduct such as loss and damages
 - (e) Community protection – to protect the community by incapacitating the offender
 - (f) Denunciation – to communicate the community condemnation.
9. In sentencing the convict, the Court is expected to take into account the blameworthiness of the convict, the victim's status and the sentencing objective which is best suited to meet the justice of the case and that the Court should not impose a sentence which is excessive, cruel and unusual. The Court should be guided by aggravating and mitigating circumstances and the effect of the crime on the victims.
10. In this cause the convict and the victim were brothers, the offence was committed while they were both under the influence of alcohol and from the evidence tendered the deceased was the aggressor. The convict has been in pre-conviction custody for a period of six years and has entered into a plea agreement with the Prosecution.
11. Whereas the Community through the Chief has expressed reservation at the release of the convict into community, I take the view that unless a sentence of death is imposed, the convict will ultimately go back to the community. In the absence of any evidence to the contrary I take the view and hold that the same has been adequately rehabilitated during the six years' period in custody and therefore the best sentence in the circumstances of this case is a none custodial sentence.
12. I therefore sentence the convict to a probation sentence for a period of three years during which period he shall be rehabilitated further and resettled into the community and it is ordered.

DATED SINGED AND DELIVERED AT MURANGA THIS 27TH DAY OF JUNE, 2023.

J. WAKIAGA

JUDGE



In the presence of:

Court Prosecutor - Waweru

No appearance by the Advocate

Jackeline - Court Assistant

