



REPUBLIC OF KENYA



KENYA LAW
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**State v Onyango (Criminal Case E003 of 2023)
[2023] KEHC 19526 (KLR) (27 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19526 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E003 OF 2023
DO OGEMBO, J
JUNE 27, 2023**

BETWEEN

STATE PROSECUTION

AND

COLLINS ODUOR ONYANGO ACCUSED

RULING

1. The accused Collins Oduor Onyango was charged before this court with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#). Following plea bargaining, he has pleaded guilty to the lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. Upon being convicted of the offence, the accused, has raised the following factors in mitigation:-
 - i. That he is a first offender.
 - ii. That the offence was spontaneous and not premeditated.
 - iii. That he acted in anger out of disagreement and regrets the harm caused by his conduct.
 - iv. That he has saved the court's time by pleading guilty after the plea bargain.
 - v. That he is remorseful.
 - vi. That he is the breadwinner of his family.
2. The accused has pleaded that he be placed on a non-custodial sentence. The prosecution has not made any submissions in response to the mitigation of the accused.
3. Prior to the mitigation of the accused, this court called for a probation officers' pre-sentence and victim impact assessment report in this matter. The report was filed herein on 12-6-2023. Salient from the



said report are that the accused is a first offender and an introvert who likes keeping to himself and that he did not intend to kill.

4. I have considered the circumstances of this case, the mitigation raised and the Social Inquiry Report (the Pre-Sentence Report) filed. Sentence is meant to achieve certain end and goals including:
 - i. Rehabilitation or reformation.
 - ii. Retribution
 - iii. Deterrence
 - iv. Constitution
5. The facts of this case clearly outline the nature of the disagreement that the accused and the deceased had. The accused was in his right mind. He ought to have exercised caution and restraint. His action led to the loss of a youthful life. It is for these reasons that I am convinced that the accused deserves a custodial sentence so that he gets the chance to be rehabilitated.

Section 205 of the Penal Code, provides;

“ Any person who commits the felony of manslaughter is liable to imprisonment for life”.

6. I have considered the fact that the accused has remained remanded in custody from the date he was first arraigned in court on 20-1-2023. He has also saved the court’s time by entering a plea bargain and pleading to the lesser charge of manslaughter.
7. In the circumstances, I sentence the accused to serve 10 years imprisonment. This sentence shall run from 20-2-2023 the date accused was first arraigned before the court. Right of Appeal 14 days.

D. O. OGEMBO

JUDGE

27TH JUNE, 2023

Court:

Ruling read out in open court (on-line) in the presence of the accused, Ms. Akinyi for accused and Ms. Mumu for the State.

D. O. OGEMBO

JUDGE

27TH JUNE, 2023

