



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Maina (Criminal Case E031 of 2022)
[2023] KEHC 21023 (KLR) (Crim) (31 July 2023) (Sentence)**

Neutral citation: [2023] KEHC 21023 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE E031 OF 2022**

K KIMONDO, J

JULY 31, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

ALEX WACHIRA MAINA ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on July 6, 2023.
2. The circumstances here are truly tragic. The accused and his mother (hereafter the deceased) were residing in Kahawa West, Nairobi. On May 14, 2022, the deceased gave the accused Kshs 500 to buy her a packet of Toss detergent. He instead spent half of it on a plate of pilau and matumbo stew.
3. The deceased quarreled him over the amount which led to a confrontation. She went into the kitchen, got a knife and pointed it at the accused. The accused grabbed it and a struggle ensued. As the deceased was trying to escape towards the door, the accused stabbed her several times on the back and chest. She told the first responders that the accused attacked her.
4. In the meantime, the accused took off and later surrendered himself to the District Officer at Mai Mahiu, many kilometres away from the locus in quo. He was re-arrested and booked at Kasarani Police Station.
5. To fully appreciate the conduct of the accused, I have looked for answers in the pre-sentence report dated July 3, 2023: The accused was abusing drugs and alcohol. Whenever under influence 'he could lose his temper at the slightest provocation, sometimes get violent and even issue death threats. To finance his drug addiction, he stole from his parents'.



6. The autopsy by Dr Charles Muturi (exhibit 1) confirms that the cause of death was 'shock due to multiple penetrating stab wounds to the chest and the abdomen'.
7. I have considered the the mitigation tendered by the accused's counsel, Mrs Kenyatta. I also allowed the accused to address the court. He is aged about 22 years and a first offender. He claims to have turned to theology and learnt some useful trades in custody such as weaving baskets. He prayed for clemency and seemed genuinely remorseful. He also sought forgiveness from his father and siblings. But while he pleads for a lenient non-custodial sentence, the rest of his family have had enough of his behaviour and pray for a more severe sentence.
8. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. The offence is grave and attracts a sentence of life imprisonment. The circumstances under which he stabbed his mother to death call for a lengthy custodial sentence. That is the justice of the case. It will also afford the accused an opportunity to further introspect and get guidance on dealing with drugs and substance abuse; and, anger management.
9. I accordingly sentence the accused to serve seven (7) years in jail. The sentence shall run from May 15, 2022, the date when he was first arrested and placed in custody.
10. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31ST DAY OF JULY 2023.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Mrs. Kenyatta for the accused.

Ms. Gikonyo & Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

