



REPUBLIC OF KENYA



**Republic v Okulo (Criminal Case E008 of 2021)
[2023] KEHC 27088 (KLR) (20 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 27088 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE E008 OF 2021
JN KAMAU, J
DECEMBER 20, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

COLLINS OLUOCH OKULO ACCUSED

SENTENCE

1. The Accused person was initially charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#) Cap 63 (Laws of Kenya). He entered into a Plea Agreement on 14th November 2023 whereupon this court convicted him of the offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#).
2. The facts of the case are that Collins Oluoch Okulo (the Accused person) was married to Josephine but they separated in 2017 and she went back to her parents. On 25th July 2021, he went to the home of his father-in-law, Wycliffe Osutsi (the deceased herein) and found Josephine washing clothes. The deceased went to his shamba to cut nappier grass, the Accused person followed him. He was armed with a wooden stick. The deceased sensed danger and ran away.
3. The Accused person kicked him in his abdomen and he (the deceased) fell down. The Accused person then hit the deceased on the head with a wooden stick and he became unconscious. Josephine rushed to the scene and tried to intervene but the Accused person hit her on the small finger of the right hand. The Accused person fled and the deceased was pronounced dead on arrival. The Post mortem was later done on July 25, 2021 where the cause of death was established as strangulation secondary to trauma.
4. The Accused person was traced from his hideout where he was arrested and charged with the offence. The Post-mortem Examination Report dated July 30, 2021 be and is hereby produced and marked as Exhibit 1.



5. Having entered into a Plea Agreement, the Accused person urged this court to sentence him to five (5) years. On its part, the State recommended a sentence of fifteen (12) years imprisonment.
6. In his mitigation, the Accused person told this court that he was a first offender and was remorseful. He added that he is a family man with two (2) children of tender age. He is a young person and a Mason. While in prison, he engaged in Bible Studies. He accepted Christ as His Saviour. He asserted that he was provoked.
7. He pointed out that the Community was receptive of him as shown in the Pre- Sentence Report of Fanny Masinde Probation Officer Vihiga County Office dated 15th December 2023 and filed on 19th December 2023 and further that the local Administration had said that the period he has stayed in prison had been sufficient.
8. He averred that although the life of the deceased cannot be brought back, he was traumatised by the event every day. He pointed out that he had been in custody for two (2) years. He prayed for a non-custodial sentence so that he could take care of his family as a mason.
9. According to the aforesaid Pre-Sentence Report, the Accused was said to come from a humble family. He had stated that he hit the deceased back after he hit him with a fimbo on his head. The incident had caused a rift between his family and that of the deceased. His family prayed for leniency and urged this court to mete upon him a non-custodial sentence. He was said to have been a hardworking man.
10. The victim's family was not keen on the matter as their father was already dead. The local administration was receptive to him being released on a non-custodial order. The neighbours said that the Accused person was well behaved from when he was a child. The Probation Officer urged this court to mete on him a lenient sentence.
11. Notably, sentencing is one of the most intricate aspects of trial. Indeed, a trial does not end unless a sentence has been meted out. The principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya have added community protection and denunciation as sentencing objectives. The objectives are not mutually exclusive and can overlap.
12. It was important that the sentence communicate to the community, condemnation of his criminal act. The sentence would indirectly send a strong signal to deter would be offenders from committing such an offence.
13. The sentence also had to be one that was hinged on retributive justice for the secondary victims.
14. It was necessary that the court take into account the three (3) objectives of deterrence, retribution and denunciation of his offence at the time of sentencing him.
15. According to the facts of this case, the Accused person followed his father-in-law to where he was cutting napier grass and hit him with a stick causing him to lose consciousness. On the other hand, the aforesaid Postmortem Report showed that the deceased died of strangulation. The version that the Accused person gave the Probation Office was not supported by scientific evidence. It was evident that he planned to cause harm to the deceased. There was definitely bad blood between them.
16. He was said to abuse alcohol which could have led him to commit the offence. He was said to be a risk to himself and to the community and at the time of his arrest, he even tried to commit suicide by burning himself in his house. The local administration and the community were not against him being released on a non-custodial sentence.



17. Having considered the facts of this case and the Accused person's mitigation, this court came to the firm conclusion that a sentence of ten (10) years imprisonment would be suitable and adequate herein. A non-custodial sentence or lenient sentence would be unjust as the circumstances of the case showed that he strangled the deceased.

Disposition

18. Accordingly, it is hereby directed that the Accused person be and is hereby sentenced to ten (10) years imprisonment to run from today. The period he spent in custody from when he was first arraigned in court on September 29, 2021 to December 19, 2023 be and is hereby taken into account while computing his sentence in line with section 333(2) of the *Criminal Procedure Code* cap 75 (Laws of Kenya).
19. Orders accordingly.

DATED AND DELIVERED AT VIHIGA THIS 20TH DAY OF DECEMBER 2023.

J. KAMAU

JUDGE

