



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Oudo (Criminal Case 6 of 2020)
[2022] KEHC 510 (KLR) (Crim) (28 April 2022) (Ruling)**

Neutral citation: [2022] KEHC 510 (KLR)

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

**CRIMINAL
CRIMINAL CASE 6 OF 2020**

DO OGEMBO, J

APRIL 28, 2022

BETWEEN

REPUBLIC PROSECUTION

AND

EMMACULATE ATIENO OUDO ALIAS EMMA ACCUSED

RULING

1. I have considered the circumstances of this case. The accused was originally charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, she has however plea bargained on the same and pleaded guilty of the offence of manslaughter contrary to section 202 of the Penal Code as read with section 205 of the Penal Code.
2. I have also considered the mitigation raised by the learned counsel for the accused on behalf of the accused basically that;
 - i) That the accused is a student at Kenyatta University in her 4th year.
 - ii) That she is remorseful and wishes to continue with her education.
 - iii) That she pleads for the court's mercy.
 - iv) That she had no criminal record.
 - v) That the incident was unintended and only out of bad luck.
3. The court was also urged to consider the probation officer's report filed in court.
4. The prosecution side have however, urged the court to consider that the deceased was only aged 2 years old and that the accused owed the child a duty to protect her. That the court ought to pass sentence



that honours the life of the child a duty to protect her. That the court ought to pass sentence that honours the life of the child and which reflects the serious nature of the offence.

5. This court has also considered the probation officers pre-sentence report. This is a serious offence in which a vulnerable child lost her life by the intended act of her own mother. The accused, being a well informed member of the society doing her 4th year at the University ought to have exercised better judgment in the manner of handling social issues such as offering parental care over her child, her own blood. Her action of killing her own child and making efforts to conceal the act smacks of a mind that was well intentioned to carry out the crime. In my view therefore, the accused deserves a custodial sentence that would act as a deterrence to her and to others of like minds.

6. Section 205 of the penal code provides;

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

7. This court has considered further considered the age of the accused at 26 years old the remorse that she has expressed over this matter. Also the prescribed sentence as seen above, taking into account the fact that the accused has been in custody from the time she was arraigned in court on 20.1.2020, I sentence the accused to serve 7 years imprisonment. This sentence shall run from the said date of January 20, 2020. Right of Appeal 14 days.

D. O. OGEMBO

JUDGE

28. 4. 2022

Court:

Ruling read out in open court in presence of the accused, Mr. Omari for the accused and Ms. Kimani for the state.

D. O. OGEMBO

JUDGE

28. 4. 2022

Mr. Omari:

We pray that accused's mobile phone be returned to her.

Ms. Kimani:

We do not object.

Court:

The investigating officer to return to the accused her mobile phone as prayed.

