



**Kipkorir v Republic (Criminal Case 58 of 2014)
[2022] KEHC 10194 (KLR) (30 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10194 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 58 OF 2014**

**JM NGUGI, J
JUNE 30, 2022**

BETWEEN

VINCENT ROTICH KIPKORIR ACCUSED

AND

REPUBLIC PROSECUTION

RULING

1. Vincent Rotich Kipkorir (“Accused Person”) was originally charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. He was accused of killing, with malice aforethought, Sharon Kantai on the 2nd day of May, 2014 at Ewaso Ngiro Centre in Narok within Narok County.
2. The Accused Person pleaded not guilty to the charge of murder and trial commenced. The Prosecution called four witnesses. At that point, the parties negotiated a plea agreement.
3. By a Plea Agreement dated 28/03/2022, the Accused Person pleaded guilty to the charge of manslaughter contrary to section 202 as read together with section 205 of the *Penal Code*. After due caution, and after satisfying myself that the Plea Agreement was entered into knowingly and voluntarily, I recorded a conviction and called for pre-sentencing report and victim impact statements (if desired) and set the case for a sentencing hearing.
4. The agreed facts of the case are laid out in the Plea Agreement as follows:

That on 2nd day of May, 2014 the Accused Person and the Deceased who was his wife were in the Accused mother’s house taking beer when a quarrel between them ensued as a result of which the Accused Person took a dagger and stabbed the Deceased. A post mortem was conducted on the body of the Deceased and will be produced as exhibit in this case.

The Accused was eventually charged with the Offence of Murder.



5. During the sentence hearing, Ms. Mumbe, Prosecution Counsel, informed the Court that the Accused Person was a first offender. She told the Court that the Deceased's family did not wish to file a victim impact statement but that they were not opposed to the imposition of a non-custodial sentence since they were keen to have the son of the Accused Person and the Deceased (the two were married) be taken care of and yet they are without the means to do so. Ms. Mumbe submitted that she supported the Probation Report's conclusions that this was a fit case for non-custodial sentence since the circumstances showed that the offence was committed while both the Accused Person and the victim were intoxicated; and that it was not planned.
6. In his mitigation, the Accused Person expressed remorse for the offence. He told the Court that he did not intend to kill or harm his wife but that he was influenced by the alcohol he had taken and anger. He expressed deep regret for his actions. He stated that he had used the time he has been in remand to learn about anger management; and that he had fully rehabilitated himself. He begged for a second chance so that he could go back home and take care of their eleven-year old son in the honour of his fallen wife. He submitted that he is only 39 years old and has an opportunity to turn his life around.
7. Ms. Chemngetich, Defence Counsel, supported the sentiments of the Prosecutor and stated that the time the Accused Person has been in custody is sufficient punishment. She emphasized that the Accused Person is genuinely remorseful and regretful for his actions. She expressed hope that the Court will allow him to go and take care of his son who is currently in the custody of a well-wisher.
8. I have considered the following relevant factors in fashioning an appropriate sentence for the Accused Person in this case:
 - i. The Accused Person pleaded guilty to the reduced charge of manslaughter and therefore saved the family the anguish of having to testify and also saved much judicial time;
 - ii. The Accused Person expressed remorse and he appeared to be genuinely remorseful;
 - iii. The Accused Person is a first offender.
 - iv. The Probation Report is quite favourable and recommends non-custodial sentence which, it says, will provide an opportunity for the Accused Person to be rehabilitated and to take care of his young son;
 - v. The offence was committed when both the Accused Person and the victim were intoxicated and there is no evidence of pre-planning or depraved conduct on the part of the Accused Person;
 - vi. The Accused Person was in custody for more than eight years during the pendency of his case; and
 - vii. The Accused Person appears to have taken the opportunity of being in custody positively and used it to reflect, reform and better his skills. As such his capacity for reform is high.
9. Given all these factors, I have concluded that the time the Accused Person was in custody is enough custodial sentence. Beyond that, only a short probation period is warranted in the circumstances. I, therefore, sentence the Accused Person to serve a Probation Sentence for a period of one year.
10. Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 30TH DAY OF JUNE, 2022

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JOEL NGUGI
JUDGE

