



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Kodiko (Criminal Case 42 of 2015)  
[2022] KEHC 15161 (KLR) (26 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 15161 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAJIADO  
CRIMINAL CASE 42 OF 2015  
SN MUTUKU, J  
JULY 26, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JEREMIAH MOITA KODIKO ..... ACCUSED**

**RULING**

1. Jeremiah Moita Kodiko, the accused herein, was initially charged with murder contrary to section 203 as read with section 204 of the *Penal Code*. The offence is alleged to have been committed on March 2, 2015 at Inkiwanjani village Sajilioni Location in Kajiado Central Sub-County within Kajiado County. The victim is Isaack Mbaru Njuguna, deceased.
2. The offence of murder was tried and proceedings had reached an advanced stage when the parties entered into a plea bargain agreement dated June 27, 2022. The Prosecution reduced the charge to Manslaughter contrary to section 202 as read with section 205 of the Penal Code.
3. On July 14, 2022, the charges were read to the accused and all particulars of the charge were explained to him. He pleaded guilty to the charge of manslaughter. The facts of the case were presented to the court as follows:

“That on March 2, 2015, at Inkiwanjani Village, Sajilioni Location in Kajiado Central Sub-County in Kajiado Count, the deceased, a private surveyor trading in the name of ACMES was called by the accused Jeremiah to meet at Isinya. The accused had convinced the deceased that they needed to meet to do business together. The deceased and accused were friends and knew each other well. The deceased informed his wife that he was going to meet the accused at Isinya.

On March 3, 2015, the wife of the deceased waited for deceased to return home but he did not return. She tried to call him but his mobile number was switched off. She sought from



his friends if he had been seen but that was not successfully. She reported the matter to the police for investigations. Investigations commenced, which led police to arrest the accused for questioning.

On March 8, 2015, members of the public discovered human remains at Inkiwanjani area. It was discovered that the remains were those of the deceased herein. The accused was interrogated over the death of the deceased. He recorded a confession with the police that he had killed the deceased over a dispute involving money which the deceased owed the accused over a land transaction. Examination of the body revealed that the cause of death was severe burns. The accused was charged with this offence.”

4. The accused admitted the facts as correct.
5. This court found the accused guilty of manslaughter and convicted him.
6. In mitigation, Ms Mageto, counsel for the accused, mitigated on behalf of the accused that the act leading to the killing of the deceased was not intentional but resulted from provocation caused by the deceased’s failure to pay his commission and that the accused was remorseful. Counsel mitigated that the accused was aged 24 years at the time of the offence, was naïve and lacked guidance; that he is now 31 years old and wiser; that the accused was hard working and is a father of a young boy now aged 7 years who looks up to the accused for guidance.
7. It was submitted that the accused has made efforts to reconcile with and compensate the family of the deceased; that the family of the deceased has forgiven him and that the accused seeks another chance in life. Counsel told the court that her client has learned lessons while in custody and that he should be given another chance in life. She asked that the accused be handed a non-custodial sentence. She produced minutes of a family meeting showing that both the deceased family and that of the accused reached reconciliation and compensation of forty (40) heads of cattle each valued at Kshs 100,000.
8. Ms Nkirote for the prosecution submitted that although the accused had made a confession to this crime and has been compliant, the offence is serious and that by his actions he ended the life of the deceased who was denied the opportunity to live; that the accused has attempted to correct the error of his ways but the state sought a deterrent sentence to serve an example to other like-minded people.
9. This court called for a pre-sentence report. I have read the report. It recommends a deterrent sentence. Though this report is not binding to the court it gives this court information regarding the social circumstances of the accused.
10. I have considered this matter. The plea bargain offer was accepted by the state. However, a lot of energy and resources had been expended in this matter including many years of court proceedings. Indeed, the record of the court shows that 11 witnesses had testified and the trial took considerable time. That is a factor that cannot be ignored by the court.
11. While I consider that the family of the deceased was compensated, this is not a civil matter. It is a criminal trial where the people of Kenya, through the office of the Director of Public Prosecutions, are the complainants. I am alive to the fact that nothing done after the fact of death can bring a life back. However, some sanction is called for if only to act as a deterrent and remind the wrong doer that life is sacrosanct and no one has a right to take the life of another no matter the circumstances.
12. I have considered the circumstances of this case. It is my view that a custodial sentence is appropriate. In meting out this sentence I am cognizance of the fact that the families have discussed the issue and some compensation paid and that this matter has taken a long time to be finalized. I have also considered the amount of time the accused spent in custody. I am minded to impose a custodial sentence. The



accused is sentenced to serve 4 years imprisonment which term considers the time the accused has spent in custody. This court hereby informs the accused of his right of appeal which should be exercised within 14 days from today's date.

13. Orders shall issue accordingly.

**DATED, SIGNED AND DELIVERED THIS 26TH DAY OF JULY 2022.**

**S. N. MUTUKU**

**JUDGE**

