



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Wangari & another (Criminal Case E048 of 2021)
[2022] KEHC 16005 (KLR) (30 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 16005 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E048 OF 2021
HK CHEMITEI, J
NOVEMBER 30, 2022**

BETWEEN

REPUBLIC PROSECUTOR

AND

BRIAN NJUGUNA WANGARI 1ST ACCUSED

KELVIN NJOROGE MATU 2ND ACCUSED

RULING

1. The accused persons were charged with the murder of the late Dorian Allan Barasa on 9th September 2021 at Pipeline Estate, in Nakuru East Sub-County within Nakuru County.
2. After a plea of guilty was recorded, they entered into a plea bargaining agreement where their charges were reduced to Manslaughter contrary to Section 202 and 205 of the [Penal code](#).
3. The accused persons admitted the offence and in their mitigation, their counsel submitted that both accused persons were young, that the 1st accused had a young family which depended on him while the 2nd accused person had dropped out of school. She urged the court to consider a non-custodial sentence as they were both remorseful.
4. The court decided to have a pre-sentence reports for both accused persons which were both filed on 19th October 2022. The said reports explained the relationship between the deceased and the accused persons who were close friends but they had disagreed on a debt the deceased owed them. The father to the deceased confirmed their friendship and stated that he could not understand their differences. It appears that when the offence was committed both the deceased and the accused persons were drunk while at the 2nd accused birthday celebrations. Additionally, they were under the influence of bhang and third generation whisky.



5. The learned state counsel left the matter to the discretion of this court but urged the court to give a proper sentence.
6. The court has perused the circumstances that led to the fight between the deceased and the accused persons. The court has taken into account the report and the sentiments as well as the remorse exhibited by the accused persons and more importantly the desire by the accused persons to pursue their studies, re-unite and assist their families. It is also noted that both accused persons are first offenders and that the 2nd accused person has been in custody for almost one year from November 2021.
7. In the premises, and taking the totality of the above facts and mitigation, each of the accused persons is hereby sentenced to a two-year probation period from the date herein under the relevant probation officers.

DATED SIGNED AND DELIVERED VIDE VIDEO LINK AT NAKURU THIS 30TH DAY OF NOVEMBER 2022.

H. K. CHEMITEL.

JUDGE

