



REPUBLIC OF KENYA



**Republic v Mukhwana (Criminal Case E059 of 2014)
[2025] KEHC 317 (KLR) (23 January 2025) (Sentence)**

Neutral citation: [2025] KEHC 317 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E059 OF 2014
SC CHIRCHIR, J
JANUARY 23, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

STEPHEN KALAVANI MUKHWANA ACCUSED

SENTENCE

1. Stephen Kalavani Mukwana (the Accused) was initially charged with the offence of Murder. However through a plea negotiation with the state, the charge was reduced to Manslaughter. He pleaded guilty to the lesser charge and was convicted on his own plea.
2. In Mitigation, his Advocate told the court that the Accused has been in custody since 2014; that he was the sole provider for his family; that he is remorseful and a first offender. He also stated that he intended to discipline and not kill the child. He seeks for a non-custodial sentence.
3. The prosecution opted not to make any submissions.
4. I have considered the Accused's submissions as well as the findings of the probation officer as contained in the social inquiry report.
5. Remorse and being a first offender are mitigating factors.
6. The fact that the Accused has pleaded guilty also earns him a little credit. However I note that he opted to enter into a bargain after five prosecution witnesses had testified and when the case was on its tenth year in the court. Thus notwithstanding the plea-bargain agreement, so much time has been spent on this case.
7. The social inquiry report paints a picture of an otherwise ordinary citizen who got along well with his larger family and the community. The circumstances of the offence as established by the probation officer mirrors the facts as read to the Accused and which he affirmed their correctness.



8. I have considered the circumstances of the offence as presented by the facts read out by the prosecution. The victim of the crime was the Accused's 7 years old son. He is alleged to have eaten vegetables meant for the family evening meal . when the incident was reported to the Accused, he uttered that he will kill the Accused as he had been problematic child. He proceeded to beat him until he died. Thus despite the accused's plea that he intended to only discipline the deceased, the utterances that accompanied the discipline, showed that he had failed to exercise self- control. Killing a child because of eating food , at his own parent's home ,is a reflection of unbridled anger on the part of the accused. The child was 7 years old and he had a right to be fed by none other that the Accused as his parent. The killing was a betrayal of trust and abuse of Authority. Such betrayal and abuse of Authority are aggravating factors as per the Judiciary sentencing policy guidelines.
9. The Accused also went further and attempted to conceal his crime. The facts show that he went and buried the child near the river and further that he only went to file a "missing person" report upon being instructed by his father.
10. The circumstances surrounding the killing aggravated the crime, and so did the attempt to conceal crime.
11. Taking everything into consideration I hereby sentence the Accused to 15 years in prison. I n compliance with Section 333(2) of the criminal procedure code the sentence is deemed to have taken effect from 13/11/2014 when the Accused was first arraigned in court
12. The Accused has a right of Appeal, limited to the sentence only within 14 days.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 23RD DAY OF JANUARY, 2025.

S. Chirchir

Judge

In presence of:-

