



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Yegon (Criminal Case E008 of 2022)
[2025] KEHC 57 (KLR) (13 January 2025) (Judgment)**

Neutral citation: [2025] KEHC 57 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E008 OF 2022
RL KORIR, J
JANUARY 13, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

AMOS KIPKIRUI YEGON ACCUSED

JUDGMENT

AND SENTENCE UPON PLEA AGREEMENT

1. The Accused, Boniface Kibet Koech was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence were that on 18th April, 2022 at around 0630 hours at Somotwet Village in Kiplelji Sub-Location, Bomet Central Sub-County within Bomet County he murdered Josphat Kipngetch Kirui.
2. The Accused took plea before this court on 28th April 2022 where he pleaded not guilty to the charge of murder.
3. On 8th November 2022, Mr Njeru, learned Prosecution Counsel informed the court that they had received a plea offer from the defence. Subsequently the plea-Bargaining Agreement was filed on 16th November 2023 and it indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 28th November 2023, this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the Plea Agreement voluntarily and that he understood his trial rights and the process of plea negotiation.
5. On the same day (28th November 2023), the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in Kipsigis language which he understood and he pleaded guilty. The court entered a plea of guilty for the offence of manslaughter.



6. The Facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

“On 18/04/2022 at around 2230hours, the Accused was at his house when the deceased who was well known to him arrived. A quarrel ensued between the two. The Accused picked a panga and slashed the deceased all over his body. The deceased lost consciousness due to excessive bleeding. He then called his relatives to inform them that he had murdered the deceased before proceeding to Chesoen Police Station to make a report. He was placed in custody.

Meanwhile, members of the public who had been informed of the incident rushed to the scene and found the Accused’s person’s house locked from outside. They broke into the house and found the deceased’s body lying in a pool of blood. Police officers visited the scene and collected the body.

On 22/4/2022, a post mortem was performed on the body of the deceased at Longisa County Hospital with the cause of death being ascertained as massive external bleeding secondary to several stab wounds on the body. The murder weapon was not recovered.

The Accused was later arrested, arraigned in court and charged with murder which offence has now been commuted to a charge of manslaughter.”

7. The Accused accepted the facts as true and was convicted on his own guilty plea for the lesser offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code.

Pre-Sentence Report

8. A pre-sentence probation report was filed on 6th December 2023 following the court’s direction. The report stated that the Accused regretted his actions and that he had no intention of killing his friend. The Accused stated that his friend who was under the influence of alcohol tried to kill him and that he acted in self-defence.

9. The Probation Officer interviewed the area Chief who stated that the death was unfortunate and blamed the use of drugs and alcohol. He stated that he hoped that the families of the Accused and the deceased would reconcile stating that the community was ready to take an active role in that process.

10. According to the Probation officer, the Accused’s family stated that the Accused was a first offender and ought to be forgiven. That reconciliation between the two families had begun and they were willing to conclude it. They pleaded with the court to give the Accused a lenient or non-custodial sentence.

11. In his recommendation, the Probation Officer indicated that the Accused’s home environment was not conducive for a non-custodial sentence.

Victim Impact Statement

12. According to the report, the victim’s family were still hurting and angry. The victim’s father stated that he felt the offence was committed intentionally as the deceased suffered many stab wounds. That the victim was defenseless and helpless.

13. The victim’s mother was disappointed to have lost her son at an early age through someone her son considered a good friend. She grieved that her son was denied a chance to a good life that she had prepared for him through proper upbringing and teachings. The family was said to have been unhappy that the offence had been reached to manslaughter.



Accused's Mitigation

14. Mitigation by the Accused was made on his behalf by his counsel, Mr. Leteipa. Counsel submitted that the deceased was an invader and out of panic, the Accused grievously harmed the victim. That the offence was committed at night.
15. It was Counsel's submission that the court take cognizance of the fact that the offence was not premediated. That the Accused did not conceal the crime and he saved judicial time by plea bargaining. It was his submission that the two families were in the process of reconciliation and the Accused's relatives were willing to rehabilitate him.
16. Counsel submitted that Accused was a father of two minors and asked the court to consider the rights of the minors. That the Accused had reflected on his actions and had been rehabilitated. Counsel further submitted that the Accused had spent two years in pre-trial custody and he prayed that the court grants the Accused a lenient sentence.

Submissions by the State

17. Mr Njeru, the learned Prosecution Counsel submitted that the Accused had saved State resources and judicial time by plea bargaining. That the Accused had no antecedents.
18. It was Counsel's submission that even though the deceased went to the Accused's house, the Accused's reaction went overboard as he cut the deceased several times. It was his further submission that from the social inquiry report both families were in the process of reconciliation but the victim's family were still grieving and mourning.
19. The Prosecution prayed for a custodial sentence to assuage the State's pursuit of justice and punishment for crime.

Analysis and verdict

20. Sentencing serves multiple as enumerated in the Sentencing Policy Guidelines 2023 which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other-in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.
- ii. Deterrence.
- iii. Rehabilitation.
- iv. Restorative justice.
- v. Community protection.
- vi. Denunciation.
- vii. Reconciliation.
- viii. Reintegration.



21. The penal section for the offence of manslaughter is contained in section 205 of the Penal Code which provides:-

Any person who commits the felony of manslaughter is liable to imprisonment for life.

22. I have also considered the pre-sentence report and the Accused's mitigation that he was remorseful and regretted the event. I have also noted that the families of the deceased and the Accused were in the process of reconciliation with the Accused's family's undertaking to completing the process. I have further noted that the Accused's family were willing to provide the Accused with all the necessary support for his rehabilitation.

23. I have considered the circumstances of the offence as stated in the statement of Facts which the Accused accepted as true. It was evident that the Accused and the deceased were friends. The social inquiry report confirmed as such and stated that they abused alcohol and drugs.

24. With respect of the events at the material time, deceased went to the Accused's home. There was no evidence of any aggression when the Accused set upon him and slashed him multiple times with a panga. According to the postmortem report exhibited he cut the deceased on the head, face, abdomen, back, legs and hands. The body bore 16 stab wounds.

25. It was not clear why the attack was so vicious and the excuse of drunkenness would in the circumstances be just that. This court takes the view that people of sound mind ought not be allowed to get away with heinous crime hiding behind the influence of alcohol.

26. I have considered that the Accused was remorseful and had saved judicial time by plea bargaining with the state. I have also considered that he was young man deserving of a second chance at life and that there were plans between the family of the deceased and his family to embark on traditional reconciliation which this court lauds for its benefit of promoting society harmony.

27. Balancing all the above factors, it is my considered view that the Accused does not merit a non-custodial sentence. Rather, the mitigating factors I have enumerated above will go into reduction of his custodial sentence.

28. I sentence the Accused to serve 10 years imprisonment from today. In arriving at this sentence, I have taken into consideration that he has been in pre-trial custody for a period of 2 years.

29. The Accused having plea bargained has a 14 days right of appeal against sentence only.

Orders accordingly.

JUDGEMENT DELIVERED, DATED AND SIGNED THIS 13TH DAY OF JANUARY, 2025.

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R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of Mr. Augustine holding brief Mr. Njeru for the state, Mr Ruto holding brief for Mr. Kipngetch for the Accused, Accused in person and Siele (Court Assistant).

