



**Republic v Aruman (Criminal Case E050 of 2023)  
[2025] KEHC 441 (KLR) (10 January 2025) (Sentence)**

Neutral citation: [2025] KEHC 441 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
CRIMINAL CASE E050 OF 2023  
SM MOHOCHI, J  
JANUARY 10, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ROBERT MORGAN ARUMAN ..... ACCUSED**

**SENTENCE**

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#); upon a Plea Bargain Agreement being entered the charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 8<sup>th</sup> May, 2024 was adopted by the Court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion;
3. The accused was accused of having unlawfully killed Alex Towe on the 22<sup>nd</sup> day of May, 2021 at Mzee Wanyama within Nakuru East Sub-County in Nakuru County; the accused was convicted on his own plea of 'Guilty' to the offence of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#);
4. Prosecuting Counsel for the State submitted that, on the 22<sup>nd</sup> May, 2021, the deceased - Alex Towe picked up a quarrel with the accused Robert Morgan who was the deceased's uncle, they lived together. As the two were arguing, the accused assaulted the deceased with a sharp object and he sustained a deep cut on the left cheek near the left-ear.
5. The accused then went and made a report at Rhino Police Post alleging that the deceased had assaulted him. He was referred to hospital to get medical attention with instructions to come back the following day for his case to be investigated but the accused failed to turn-up as he had fled.



6. Moses Lonyait, a brother to the accused and uncle to the deceased found the deceased lying on the ground bleeding. He made a report at Rhino Police Post and he was advised to rush the deceased to seek medical attention. The deceased was given first aid at Abigail Medical Clinic and was referred to Nakuru PGH for further medical attention. They did not proceed to hospital but instead went back home intending to go to PGH the following day.
7. On the morning on 23<sup>rd</sup> May, 2021, Moses Lonyait went to the deceased's house to take him to hospital but for treatment but found that the deceased had already succumbed to his injuries.
8. The police were informed, upon arrival, the scene was photographed and documented by the scenes of crime personnel. The body of the deceased was escorted to Nakuru Mortuary where post-mortem was conducted by Dr. Biketi.
9. The accused person was spotted by members of the public on 9<sup>th</sup> December, 2023 while at his home at Mzee Wanyama area. The police were alerted and he was subsequently arrested and booked.
10. The accused was subjected to mental assessment and was found fit to stand trial and was charged with the offence of murder which is now substituted with manslaughter.
11. They produced a Post Mortem Form and Photographs as exhibits in support of the charge.
12. The State had on the 6<sup>th</sup> May 2024 on a date scheduled for hearing made a plea bargain offer to the defense resulting to the plea-bargaining agreement dated 8<sup>th</sup> May, 2024.
13. At the hearing hereof, the accused was at all times represented by Learned Counsel Ms. Morande whereas Ms. Jackie Kisio was the Prosecuting Counsel for the State; both counsels were invited to make submissions before sentencing;
14. In mitigation counsel for the convict associated himself with the prosecution's submissions that the convict in accepting the Plea Bargain Agreement had not wasted the Court's time; he was extremely remorseful and that the this was a matter with unfortunate circumstances, he did not intend to inflict fatal injuries on the deceased, the convict is 65 years old father of eight children, and that he accidentally assaulted the deceased with a knife he prays for a non-custodial sentence.
15. That the Pre-sentence report is favorable and buttresses the case for a non-custodial sentence.
16. That the Victim and Convict are related, the deceased was a nephew to the convict (Deceased-Sister's Son) and that his family has lost the deceased.

### **Analysis**

17. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; this Court has considered the full circumstances of the offence which is contained in the Facts;
18. The applicable law on sentence for the offence of manslaughter is found under the provisions of Section 205 of the *Penal Code* which reads as follows:

Any person who commits the felony of manslaughter is liable to imprisonment for life'
19. The section provides for the maximum sentence, that is life imprisonment; this Court has taken into consideration the aggravating circumstances in that the convict used a deadly weapon namely a knife in committing the offence; but the facts reveal that the killing was not premeditated; the accused in a burst of anger leading to the unfortunate state of affairs;



20. The mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved on judicial time; also taken into consideration are the personal circumstances of the accused that he has also expressed his remorse and is deemed to be a first offender;
21. This Court has equally taken into consideration the advanced age of the convict.

### **Findings & Determinations**

22. This Court notes the contradictory circumstances of the case as offered by the convict to the probation department for sentencing, where he alleges some moguka people fatally injured the deceased and not him and that he was involved in taking the deceased to obtain medical attention.
23. The fact that the accused elected to introduced a new theory at this juncture is indicative of his lack of truthfulness warranting imposition of an imprisonment sentence.
24. This Court accordingly imposes an imprisonment Sentence of Five (5) years to run from the 22<sup>nd</sup> December 2023.

It is so Ordered.

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS DAY OF 10<sup>TH</sup> DAY OF JANUARY, 2025.**

**S. MOHOCHI**

**JUDGE**

