



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kemboi (Criminal Case E001 of 2023)
[2025] KEHC 1813 (KLR) (20 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1813 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E001 OF 2023
JK SERGON, J
FEBRUARY 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

ERIC KIPRONO KEMBOI ACCUSED

SENTENCE

1. Eric Kiprono Kemboi the Accused herein, pursuant to a plea bargaining agreement was convicted with the offence of manslaughter Contrary to Section 202 as read with Section 205 of the [Penal Code](#) Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 13th day of May, 2020 at Kapsorok in Soin/Sigowet Sub-County within Kericho County, unlawfully killed Japhet Kipngeno Korir.
2. Upon convicting the accused person for the aforesaid offence, this court directed the county probation officer to file a pre-sentence report and also invited the accused to make submissions in mitigation to guide the court in determining the appropriate sentence to be meted out.
3. Mr. Munga, the Learned Counsel for the Accused, submitted that the accused was deeply remorseful for the events that culminated in the demise of the deceased. He submitted that at the time the awful incident happened, the accused and his friends were all inebriated having consumed alcoholic drinks, an altercation broke out among friends and when the accused tried to separate the duo, the victim attacked the accused who retaliated in self defence and therefore the offence was not premeditated. The Learned Counsel submitted that the accused is a first offender and therefore urged this court to exercise leniency during sentencing and consider a non-custodial sentence.
4. Miss Maundu, the Learned Assistant Director of Public Prosecutions, submitted that during the altercation, the accused hit the deceased on the abdomen resulting in a rupture of the spleen which led to his demise and therefore in the circumstances a deterrent sentence is the most appropriate.



5. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer in respect of the accused person. In the aforesaid report, it is noted that the offender relies on menial work to eke out a living. The offender was previously employed as a post harvester at the James Finley Estate flower farms. The offender has no difficulties in relating with his family and the community.
6. On the material day, he and his friends were at a drinking den when an altercation ensued between the victim and another friend, the offender tried to intervene, the victim attacked the offender who retaliated in self defence. The offender was arrested and charged with the instant offence when the victim passed away. The victim expressed remorse for the incident that culminated in the demise of the deceased and maintained that the offence was not premeditated. The offender therefore urged this court to exercise leniency during sentencing.
7. The victim’s family were not opposed to a non-custodial sentence, save for one of the victim’s brothers who was hesitant to embrace peace and coexistence with the offender. The family of the victim acknowledged that the awful incident that led to the demise of their kin happened while the offender and the victim were inebriated.
8. The offender has strong ties in the community. The offender is well known to the local administrator, with no records of criminality. The local administrator highlighted that the instant offence happened when the offender and the victim were on a drinking spree and therefore under the influence of alcohol. The local administrator was not opposed to a non-custodial sentence so long as the family relocated the offender to a safe haven to avoid the expressed hatred by the victim’s brother.
9. Based on the findings of the social inquiry and assessment, the probation officer found the offender suitable for a non-custodial sentence and likely to benefit from counselling sessions on anger management. The probation officer therefore recommended the offender for placement on a probation order for a period of three years subject to this court’s verdict.
10. This court has considered that the accused person was arrested on 7th January, 2023 about 2 years and 8 months after the alleged offence, he was examined and found fit to stand trial. On 8th February, 2023 he pleaded not guilty to the charge. The accused made an application for reasonable bail/bond terms, the accused was granted a bond of kshs. 100,000/= with a surety of similar amount. I have perused the file, it is not clear whether the accused was subsequently released, therefore, the accused has been in custody for a period of 2 years. The period the Accused spent in custody is taken into account and is discounted in the sentence this Court will pronounce.
11. I have considered the circumstances of the offence, submissions in mitigation and have further considered the contents of the pre-sentence report filed by the county probation officer in respect of the accused person. Having considered all the above factors, I find that the appropriate sentence should be a short custodial sentence.
12. Consequently, the Accused namely: Eric Kiprono Kemboi is sentence to serve 8 years imprisonment.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 20TH DAY OF FEBRUARY, 2025

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor – Miss Okello



Accused – Present in Person

