



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mutai (Criminal Case E016 of 2023)
[2025] KEHC 2649 (KLR) (6 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 2649 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E016 OF 2023**

JK SERGON, J

MARCH 6, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

DOMINIC KIPLANGAT MUTAI ACCUSED

SENTENCE

1. Dominic Kiplangat Mutai the Accused herein, pursuant to a plea bargaining agreement was convicted with the offence of manslaughter contrary to Section 202 as read with section to section 205 of the *Penal Code* Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 27th day of September, 2023 at Monoru Village, Roret Location, Bureti Sub-County within Kericho County, unlawfully killed Triza Kendi Mwenda also known as Triza Kendi Cheptoo Mutai.
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. Waweru, the Learned Counsel for the Accused, submitted that the offender is deeply remorseful for the events that culminated in the demise of the deceased. He further submitted that the offender is the sole breadwinner 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 prior to the victim's demise, she had suffered repeated abuse from the offender from a tender age and therefore this court ought to mete out a deterrent sentence.
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 enjoys a quality relationship with his family. The offender and his wife are small scale farmers who are well known in the village.
6. The offender was convicted for manslaughter, in his confession he alluded that was in the company of the victim when she fell on some rocks, he rushed her to the nearest medical facility where she succumbed. The offender regrets the circumstances that resulted in the demise of his daughter, he loved and cared for her and still enjoys a quality relationship with his spouse. The offender expressed concern about his wife who hails from a different community and does not understand the local dialect in the event he is incarcerated. He therefore urged this court to exercise leniency during sentencing.
 7. The wife to the offender urged this court to exercise leniency and place the offender on a non-custodial sentence, the offender cared deeply for the victim and had no premeditated mind to commit the offence, the wife to the offender is fearful on her fate upon the incarceration of the offender, she reported that she is fretful about returning to her parent's home as she does not have a support system.
 8. The social inquiry revealed that the offender enjoys strong community ties. The offender does not have a history of criminality in the community. The village elder reported that the offender relates well with the community and does not keep the company of people with antisocial tendencies. The community and the local administrator are not opposed to a non-custodial sentence.
 9. Based on the findings of the social inquiry and assessment, the probation officer found the home environment is suitable for his release on a non-custodial sentence, the family is willing to assist the offender with rehabilitation and social reintegration and therefore recommended the offender for placement on a probation order for a period of two years subject to this court's verdict.
 10. This court has considered that the accused person was arrested on 28th September, 2023 soon after committing the instant offence, he was arraigned in court on 19th October, 2023 and remanded. The offender sought to be admitted to reasonable bond terms and this court ordered that the offender be released from custody upon signing a bond of Kshs. 200,000/= and surety of like sum. I have perused the record, there is no indication that the accused was released on bail/bond, therefore the accused has been in custody for a period of 1 year and 5 months.
 11. I have considered the circumstances the offence was committed and the submissions made in mitigation. I have further considered the contents of the pre-sentence report filed by the county probation officer in respect of the accused person.
 12. Having considered the above factors, I am convinced that the appropriate sentence should be custodial. I find that a sentence of Ten (10) years imprisonment is reasonable. However, this Court is cognizant of the fact that under Section 333(2) of the *Criminal Procedure code*, the period served in remand pending trial should be taken into account. The Accused herein was in remand pending trial for 1 year and 6 months. That period should be deducted from the ten (10) years imprisonment.
 13. Consequently, the Accused Person namely: Dominic Kiplangat Mutai is hereby sentenced to serve eight (8) years six (6) months imprisonment.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 6TH DAY OF MARCH, 2025

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor - Ogutu



Accused – Present in Person

