



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Tonui (Criminal Case E009 of 2021)
[2025] KEHC 4828 (KLR) (23 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 4828 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E009 OF 2021
JK NG'ARNG'AR, J
APRIL 23, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

CHARLES KIPRONO TONU I ACCUSED

JUDGMENT

1. The Accused, Charles Kiprono Tonui 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 31st day of May, 2021 at Nyageso Village, Ngererit Sub Location, Sotik Sub County, Konoin Sub County within Bomet County murdered Benard Kipkurui.
2. The Accused took plea where he pleaded not guilty to the charge of murder.
3. On 11th April, 2024, Mr. J.K.Koech advocate for the accused informed this court that informed this court that the parties wished to plea bargain. The Plea Bargaining Agreement dated 25th February, 2025 indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 26th February, 2025, 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.
5. On 26th February, 2025 the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kiswahili 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:-

“The accused person Charles Kiprono Tonui was accused of the offence of murder that on 31st May, 2021 he murdered Bernard Kipkurui Tonui.



On the material day, 31st May, 2021 the accused armed himself with a panga and accosted the deceased who was in the company of their father Mistari Arp Chepkwony in their family land. It appears that there was a dispute over the tea picking rights on that piece of land.

A quarrel ensued pitting the accused against his father and the deceased. The accused then cut the deceased several times inflicting severe injuries leading to his demise. The cause of death was established to be severe head and chest injuries secondary to assault. The accused surrendered himself to Konoin Police station and was arrested. He was later charged with the offence of murder.

7. The Accused accepted the facts as true and was convicted on his own guilty plea for the 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 dated 17th March 2025 was filed following the court's direction. The report stated that the Accused regretted circumstances under which he committed the offence and understood the gravity of the offence. He prayed that this court forgives him and requested for a non custodial sentence so as to re-start his own family and pledged to mend fences with the victim's family, siblings, immediate family and clan.
9. The Probation Officer recommended the Accused was suitable for a probation sentence of three years.
10. In mitigation, the Accused submitted that he had changed and sought this court's leniency in sentencing.
11. Sentencing serves multiple purposes 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.
12. 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.
 13. In the final analysis, having considered the circumstances of the case, the Accused's Mitigation, the Pre-Sentence Report, the Victim Impact Statement and the applicable Law, I make the following orders: -



- i. The accused is sentenced to serve 12 years imprisonment.
- ii. The sentence to run from 14th June 2021 on being arraigned to court.
- iii. 14 days right of appeal is granted.

Orders accordingly

SENTENCE DELIVERED, DATED AND SIGNED AT BOMET THIS 23RD DAY OF APRIL, 2025.

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HON. JULIUS K. NG'ARNG'AR

JUDGE

Sentence delivered in the presence of Mr. Njeru for the State, J. K. Koech for the Accused and Siele/Susan (Court Assistants).

