



**Republic v Opiyo (Criminal Case E066 of 2023)
[2025] KEHC 4011 (KLR) (Crim) (1 April 2025) (Sentence)**

Neutral citation: [2025] KEHC 4011 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CRIMINAL

CRIMINAL CASE E066 OF 2023

K KIMONDO, J

APRIL 1, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

EMILY ATIENO OPIYO ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 23rd October 2024.
2. The accused and the deceased were living together in Kayole with their one-year-child. On the night of 3rd September 2023, an argument ensued between the couple leading to a fight during which the accused stabbed him on the left lower limb which severed a major blood vessel.
3. The deceased left the house but collapsed moments later by the roadside. He was taken to Mama Lucy Hospital where he died on 5th September 2023. When the scene was later documented, the accused led the police to the weapon which had been thrown into a dustbin.
4. The autopsy report by Dr. D. Atandi (exhibit 1) confirms that the cause of death was “exsanguination due to a severed limb artery” which is consistent with the facts read out at the trial and admitted by the accused.
5. Learned prosecution counsel, Ms. Kigira, urged the court to consider all the circumstances and gravity of the offence. There is then the mitigation tendered on behalf of the accused by his learned counsel, Mr. Gikonyo. He emphasized that the altercation was over rent and fueled by drunkenness. He also argued that the relationship was toxic. Nevertheless, the accused regrets her conduct and pleaded for leniency; preferably a non-custodial sentence.



6. I have also perused the pre-sentencing report dated 20th January 2025 under the hand of Mary Abima, Probation Officer. The accused is 32 years old, a first offender and has a young child. She says she is remorseful and prays for a fresh opportunity in life.
7. On the other hand, is the victim's family. According to the report, "the sudden demise of the deceased has engraved deep sorrow...the pain as well as possibilities of retaliation could be observed in their narration and non-verbal cues. They emphasized that reconciliation was unwelcome and that a non-custodial sentence [would be] too lenient"
8. The accused may have endured an abusive relationship but her unrelenting anger led to loss of an innocent life. It has now ended in needless agony for the family of the deceased. The fact that she used a knife to slice off a major blood vessel on the leg of the victim remains an aggravating factor. It is also clear that the family of the victim is still hurting and not open to any reconciliation.
9. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. Like I have stated, the fact that the accused used a kitchen knife to inflict a deep stab-wound on the leg and cutting off a major artery is a serious aggravating factor.
10. Justice of the case thus demands a custodial sentence. It will also afford the accused, as recommended by the probation officer, "interventions on anger management, conflict resolution and affirmative decision making".
11. I accordingly sentence the accused to serve six (6) years in jail. The sentence shall run from 5th September 2023, the date when she was first arrested and placed in custody.
12. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to her immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 1ST DAY OF APRIL 2025.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of:-

The accused.

Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. Gikonyo for the accused.

Mr. E. Ombuna, Court Assistant.

