



**Republic v Tallam (Criminal Case 5 of 2020) [2025] KEHC 7020 (KLR) (22 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 7020 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE 5 OF 2020**

**JM NANG'EA, J**

**MAY 22, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**JULIUS TONUI TALLAM ..... ACCUSED**

**SENTENCE**

1. The Convict herein pleaded guilty to the lesser offence of Manslaughter Contrary to Section 205 of the *Penal Code* after initially being charged with Murder Contrary to Section 203 as read with Section 204 of the same *Code*. This was the culmination of plea bargain between the Director of Public Prosecutions and the accused pursuant to the Section 137A of the *Criminal Procedure Code*.
2. In her written mitigation submissions the defence Counsel (Ms Wambui) tells the court that the assault that led to the deceased's demise was not premeditated but provoked. The deceased is said to have caused the fatal fight owing to intoxication and aggression. Urging the court to consider a non-custodial sentence, Counsel wants her client to be given credit for entering into the plea bargain. Counsel further pleads that the Convict is remorseful and willing to reconcile with the deceased's family in the traditional way, and the deceased's family members are also receptive.
3. Owing to the Convict's remorse and willingness to reconcile by the parties, a non-custodial, preferably a Probation sentence, is suggested to facilitate restorative justice. In support of this sentence, I am referred to case law in *Republic v David* (Criminal Case No. 49 of 2018) {2025}KEHC 1305 (KLR) and *Republic v Mwebi* (Criminal case No. 48 of 2018) {2025}KEHC 141 (KLR) where in more or less similar circumstances non-custodial sentences were favoured to help the offender to make amends and re-integrate into his community.
4. Were the court to mete out a custodial sentence, I am urged to take into account the period the offender has already spent in custody.



5. The Prosecution Counsel (Ms Sang) acknowledges that the offender has no previous criminal records and is entitled to credit for pleading guilty thereby saving time and costs. While the deceased's family is said to be still bitter, they are amenable to reconciliation with the Convict. Nonetheless, the Prosecution Counsel thinks that a custodial sentence is appropriate for the "gruesome" killing for deterrence. The Republic contends that even if the deceased was drunk and exhibited aggressive conduct during the incident, that was no justification for the killing. A 7-year imprisonment term as proposed in the filed Plea Agreement is recommended in the circumstances taking into account that human life was lost.
6. I have considered the submissions against the applicable principles of sentencing and the operational [\*Judiciary Sentencing Guidelines\* 2023](#). It is noted that the offender is youthful at 37 and has no criminal antecedents. It is a mitigating factor that he entered into the Plea Agreement and thus helped reduce costs which is in keeping with public policy as observed by the Prosecution Counsel.
7. The Probation Officer's pre-sentence report dated 24/04/2025 indicates that the families of the offender and the deceased have agreed on reconciliation but it seems the process had not begun. The Convict's family, however, indicated that it was the offender who would have to personally give out a cow to the deceased's family which is necessary to initiate reconciliation. It is recommended in light of the foregoing inter alia that the convict be placed on the Probation Programme for counselling and to enable the reconciliation.
8. The circumstances in which the victim's death occurred were indeed gruesome as the deceased was bludgeoned on the head with a club resulting in bleeding and death. It is, however, a mitigating factor that the affected families are willing to reconcile, but it appears the Convict's family may not assist him if he fails to provide the cow that is requisite for starting negotiations.
9. Having considered all the relevant factors, I concur with the prosecution Counsel that a custodial sentence is imperative to better deter the offender. And considering the obtaining circumstances while I appreciate the stated mitigating circumstances, the accused perpetrated a vicious attack against his neighbour. That the deceased was drunk or otherwise intoxicated is not an acceptable excuse.
10. Doing the best I can, I sentence the offender to eleven (11) years imprisonment. The period he has been in remand custody from the date of his arrest on 6/1/2020 until his release on bond as per the charge sheet and information presented before the court is to be discounted. The period from 18<sup>th</sup> December 2024 to date after cancellation of his bond shall also be deducted from the said prison term.
11. Sentence imposed accordingly.

**J. M. NANG'EA, JUDGE.**

**RULING DELIVERED THIS 22<sup>ND</sup> DAY OF MAY, 2025 IN THE PRESENCE OF:**

The Prosecution Counsel, Ms Sang

Ms Wambui Advocate for the accused

The Convict, present

The Court Assistant, Jeniffer

**J. M. NANG'EA, JUDGE.**

