



**Republic v Kirui (Criminal Case 17 of 2020)
[2025] KEHC 6834 (KLR) (21 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6834 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE 17 OF 2020
JK NG'ARNG'AR, J
MAY 21, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

NICHOLAS KIPKEMOI KIRUI ACCUSED

JUDGMENT

1. The Accused, Nicholas Kipkemoi Kirui 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 10th day of August, 2020 at Kipsigirio Village, Toboino Sub Location, Konoin Sub County, within Bomet County murdered BENARD KIPROTICH NGETICH.
2. The Accused took plea on 2nd December, 2020 where he pleaded not guilty to the charge of murder.
3. On 23rd April, 2025 the parties wished to plea bargain. The Plea-Bargaining Agreement dated 17th March, 2025 indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 23rd April, 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 23rd April, 2025 the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kipsigis 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 Nicholas Kipkemoi Kirui and the deceased person herein Bernard Kiprotich Ngetich were taking alcohol together with the brothers and village colleagues at Tilolwon market at the same time playing cards for money (gambling) among themselves. Shortly at about 2200hours, the accused person one Nicholas Kipkemoi Kirui engaged in



a heated argument over money kshs. 50 which the deceased demanded from the accused person. Thereafter the argument made Nicholas Kipkemoi now accused, to move away. Barely, two minutes later, the accused person returned now armed with a huge stone and found the deceased unaware before hitting him hard on the back of his head. The deceased fell down on the ground from the impact. Later the deceased was rushed to Cheptalal sub county hospital where he was pronounced dead on arrival. The police officers visited the scene and after documentation, removed the said body to Kapkatet sub county hospital mortuary for a post mortem, and also recovered a medium sized stone as the murder weapon. The accused was arrested and charged with 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 14th May, 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 promising to abide by all set conditions.
9. The Probation Officer recommended the Accused was suitable for a non custodial sentence.
10. 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.
11. 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.
 12. 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 6 years imprisonment.
 - ii. The sentence to run from 26/8/2020 on being arraigned to court.



iii. 14 days right of appeal is granted.

Orders accordingly.

JUDGEMENT AND SENTENCE DELIVERED, DATED AND SIGNED AT BOMET THIS 21ST DAY OF MAY, 2025.

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HON. JULIUS K. NG'ARNG'AR

JUDGE

Judgement and Sentence delivered in the presence of Mr. Njeru for the State, Ms Chirchir for the Accused and Accused in person. Siele/Susan (Court Assistants).

