



**Republic v Njeru (Criminal Case E025 of 2024)
[2025] KEHC 6605 (KLR) (21 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6605 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
CRIMINAL CASE E025 OF 2024
RM MWONGO, J
MAY 21, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ANTHONY KARIUKI NJERU ACCUSED

JUDGMENT

The Change

1. The accused was charged with murder contrary to Section 203 as read together with Section 204 of the *Penal Code*. The particulars of the offence are that on 05th August 2024 at Sweet Banana area, Kithungururu sub-location, Ngandori West location, Embu North subcounty within Embu County, the accused murdered Samson Njiru Cicilia.
2. The accused pleaded not guilty and the plea was duly entered.

Plea-Bargaining Agreement (PBA)

3. At the point of pretrial, the parties entered into a Plea-Bargaining Agreement dated 06th February 2025 signed by the accused, his advocate and the prosecuting counsel. The accused pleaded guilty to the offence of manslaughter contrary to section 202 as read with 205 of the *Penal Code*. The PBA was availed in court together with court's compliance form for recording the plea agreement, the deceased's post-mortem report dated 07th August 2024, and statement of facts.
4. The court was satisfied that the accused person understood his rights under section 137F of the *Criminal Procedure Code* as he answered in the affirmative to the questions in the Court Form, Part B. Consequently, the Plea Agreement was adopted as part of the court record.



5. Accordingly, the accused person was convicted with the offence of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#). Under Section 205 of the [Penal Code](#), the punishment for Manslaughter renders the accused liable to imprisonment for life.

Mitigation

6. The accused person availed his mitigation and the court has duly considered it. Counsel stated that he is aged 42 years old and that after the incident, he cooperated with the authorities and even surrendered himself to the chief. That he is the only parent to his child who is of tender years. He stated that he regrets the offence and is remorseful.

Response to Mitigation

7. In response to the mitigation, the prosecution stated that the deceased was a father to 6 children and his wife is left mourning. The deceased's wife is struggling to make ends meet since the deceased was the sole breadwinner. It stated that the deceased's family needs retribution through imposing a sentence of 20 years imprisonment upon the accused. The prosecution referred to the probation officer's presentence report.

The Probation Officer's Pre-Sentence Report (POR)

8. According to the probation officer's report dated 20th March, 2025, the accused is 39 years old and he has a wife and children. His family portrays him as a hardworking man whose actions have inconvenienced his wife and children. The community shuns him and hope that they do not have to see him again following the incident. They have threatened to lynch him if he returns. The victim's family remains bitter and hopes that the court will sentence the accused appropriately. The report recommends a custodial sentence.

The Facts

9. The facts of the case are as follows:

On the on the day of the incident, the accused's wife had accused the deceased of stealing her Kshs.250/= . The accused went to Sweet Banana bar where the accused was and he confronted him about the money. the deceased denied having taken any money and a fight ensued. During the altercation, the accused cut the deceased severally with a slasher. The deceased sustained several injuries and he bled to death.

Analysis and Determination

10. The court in this matter is guided by the provisions of the Judiciary Sentencing Policy Guidelines 2023 as amended on direction of the Supreme Court in the case of Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR).
11. Under section 205 of the [Penal Code](#), the accused faces a punishment of life imprisonment. In April 2025, the Supreme Court found life imprisonment sentence to be lawful and applicable. This was the finding in the cases of Republic v Ayako (Petition E002 of 2024) [2025] KESC 20 (KLR) (Ayako case) and Republic v Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (Manyeso case) where it was held that only parliament bears the power to revise a sentence prescribed under a statute.
12. Despite this, the court should exercise its discretion given the circumstances of the case. The prosecution has recommended a sentence of 20 years imprisonment as a form of retribution while the



accused has prayed for leniency. The prosecution stated that the accused is a repeat offender and that there is an ongoing assault case against him, a file in Embu, MCCR E682 of 2024.

Conclusions and Disposition

13. The court must balance the rights of the accused to a lenient sentence with the rights of the victim's family and with the Public Interest. Through the POR, it is indicated that there is the risk of retaliation if the accused is handed a non-custodial sentence. The circumstances surrounding the death of the deceased and the relationship between the accused and his family and community, speak in favour of a custodial sentence. This would be in the interest of justice.
14. In light of the foregoing, I hereby sentence the accused to a term of 15 years imprisonment commencing on the date of his arrest, namely, 10th August, 2024.
15. Orders accordingly.

DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 21ST DAY OF MAY, 2025.

R. MWONGO

JUDGE

Delivered in the presence of:

Accused present in Court.

Ms. Nyika for the State.

Ms. Mwangi for accused.

Francis Munyao - Court Assistant.

