



**Republic v Aguko (Criminal Case E022 of 2024)  
[2025] KEHC 6370 (KLR) (15 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 6370 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
CRIMINAL CASE E022 OF 2024**

**OA SEWE, J**

**MAY 15, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**BYRON OTIENO AGUKO ..... ACCUSED**

**SENTENCE**

1. The accused, Byron Otieno Aguko, was initially charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code, Chapter 63 of the Laws of Kenya. The particulars supplied in the Information dated 29<sup>th</sup> August 2024 were that on the 11<sup>th</sup> day of August 2024 at Arujo Location in Homa Bay Sub-County within Homa Bay County, he murdered Angeline Akoth Ogola.
2. Although the accused denied the charge, the parties negotiated a Plea Agreement which was approved and adopted by the Court on 27<sup>th</sup> March 2025. The charge of murder was consequently substituted with manslaughter. The accused pleaded guilty to the lesser offence of manslaughter, preferred under Section 202 as read with Section 205 of the Penal Code and was convicted on his own plea of guilty. The matter is coming up for sentencing.
3. Section 205 of the Penal Code stipulates that a person who commits the offence of manslaughter shall be liable to imprisonment for life. However, the Judiciary Sentencing Policy Guidelines suggests that:

Where the option of a non-custodial sentence is available, a custodial sentence should be reserved for cases where the offence is so serious that neither a fine nor a community sentence can be justified. The length of that sentence will depend on the maximum penalty allowed by law and the seriousness of the offence and other factors set out in Part V. The court should bear in mind the high rates of recidivism associated with imprisonment and seek to impose a sentence that is geared towards achieving the sentencing principles and objectives set out in Part I.



4. The accused addressed the Court in mitigation through his counsel. It was indicated that he is remorseful and pleads for leniency. The court was further told that he has a young family comprising of a wife and an infant, who depend on him for their daily upkeep. The deceased was his grandmother who was, at the time of her death aged 80 years. The facts show that he hit her with a stone on the chest after hurling abuses at her for no apparent reason.
5. The Court called for a Pre-Sentence Report as well as a Victim Impact Statement; both of which show that the accused had an altercation with a cousin of his, called Jimmy and that the stone was aimed at the said Jimmy, but accidentally hit the deceased. His uncles and aunties are agreeable to having him back for psychosocial support. Thus, the recommendation in the Pre-Sentence Report is that the offender is suitable for non-custodial sentence.
6. Thus, having taken all the foregoing factors into account, the accused, Byron Otieno Aguko, is hereby placed on Probation for a period of 3 years. The conditions and terms thereof have been explained to him and he has expressed willingness to abide by those terms and conditions.

It is so ordered.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 15<sup>TH</sup> DAY OF  
MAY 2025**

**OLGA SEWE**

**JUDGE**

