



**Republic v Ouma (Criminal Case E018 of 2024)
[2025] KEHC 6367 (KLR) (14 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 6367 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
CRIMINAL CASE E018 OF 2024**

OA SEWE, J

MAY 14, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

DERRICK OCHIENG OUMA ACCUSED

SENTENCE

1. The accused, Derrick Ochieng Ouma, was charged with Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*, Chapter 63 of the Laws of Kenya. It was alleged that on the 4th day of June 2024 at Orongo Village in Kayanja Sub-location within Mbita Sub-county in Homa Bay County, he murdered Cecily Nelly Ouma, who was his mother. He initially denied the charge, but later gave the indication that he was willing to enter into a Plea Agreement with the Prosecution.
2. The parties were given an opportunity to engage in plea negotiations. They filed a Plea Agreement herein on 27th March 2025 for adoption by the Court. The Plea Agreement was duly considered and adopted by the Court. The accused thereupon pleaded guilty to the lesser offence of manslaughter 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. At paragraph 1.3 of the Judiciary Sentencing Policy Guidelines, some of these objectives are set out as hereunder:
 - (a) Retribution: to punish the offender for his/her criminal conduct in a just manner.
 - (b) Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - (c) Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law abiding person.



- (d) Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
 - (e) Community protection: to protect the community by incapacitating the offender.
 - (f) Denunciation: to communicate the community's condemnation of the criminal conduct.
4. Hence, although Section 205 of the *Penal Code* stipulates that a person who commits the offence of manslaughter shall be liable to imprisonment for life, it is not in every such case that life imprisonment would be warranted. The 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.

5. There is no doubt that what the accused did is reprehensible, particularly considering that the deceased was his mother who had the most sympathy for him in the circumstances. The facts presented by the prosecution show that after he had been restrained and chained up, he pleaded with his mother and hoodwinked her into removing the chains. He had been locked up in the house and the only other person present was his mother.
6. However, it is also the case that he is a first offender. He was afforded the opportunity to address the Court in mitigation through his counsel. Counsel conveyed the accused's remorse; and urged the Court to consider that he was still a minor when the offence was committed. Counsel conceded that the accused was delusional and had been chained, beaten and starved of food.
7. The Court called for a Pre-Sentence Report as well as a Victim Impact Statement. Both statements show that the accused is of an unpredictable character. He is perceived to have been recruited to a cult and therefore the grandmother is apprehensive that the accused might cause her harm if given non-custodial sentence. He was accordingly found unsuitable for placement on probation.
8. Thus, having taken all the foregoing factors into account, it is manifest that non-custodial sentence is not appropriate in the circumstances. I have taken into account that the accused has been incarcerated since the date of his arrest. He is hereby sentenced to imprisonment for a period of 6 years, to be reckoned from the date of his arrest.

It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 14TH DAY OF MAY 2025

OLGA SEWE

JUDGE

