



**Republic v Kisambu (Criminal Case E032 of 2021)
[2025] KEHC 5910 (KLR) (9 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5910 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E032 OF 2021**

A MSHILA, J

MAY 9, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

AMOS GODEKA KISAMBU ACCUSED

RULING

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#); upon a Plea Bargain Agreement being entered this charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 20th November, 2024 was adopted by the court upon being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion of any kind;
3. The accused was charged with having unlawfully killed Phelister Wanjiku Waithira on the 19th May, 2021 between 04.00hours and 05.00hours at Nderi Trading Center within Kikuyu Sub County, within Kiambu County;
4. The facts as read out by the Prosecuting Counsel are as follows; On 18th April, 2021 the deceased and her friends joined together to enjoy drinks at Nderu Shopping Centre; the accused called her requesting her to meet him at her house, to which she declined; he traced the deceased to Rangers Bar but she told him that she was interested in his company and he was ejected from the bar by a bar-maid and a police officer; at 2.30am the deceased left the bar with her friends and she noticed that the accused was standing across the road; she parted company with her friends and headed home unaware that the accused had followed her; a confrontation then ensued between the two emanating from the accused questioning the manner the deceased had treated him in front of her friends; a witness Benson Ombati who was a watchman where the deceased resided stated that he witnessed the confrontation and that



- he saw the deceased threatening the accused with a knife; the deceased later sent a message to her friend Rahab that she had been stabbed; at 5.30am the deceased body was discovered and she had died of excessive bleeding caused by the stab wounds; her body was moved to PCEA Kikuyu Mortuary. The accused was later arrested by police officers from Kasarani Police Station;
5. On 21st May, 2021 a post-mortem was conducted by Dr. Ndegwa (PW1) it was his opinion that the cause of death was neck injury due to penetrating sharp forced trauma in other words a stab wounds to the neck; PW1 produced into court the Post Mortem Report which was marked as ‘PExh.1’;
 6. The accused stated that the facts as narrated were true and correct and the court proceeded to convict him on his own plea of ‘Guilty’ for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code;
 7. The accused was represented by Learned Counsel Mr. Karanja whereas Mr. Gacharia was the Prosecuting Counsel for the State; Both Counsel were invited to make submissions before sentencing;
 8. In opted to personally conduct his own mitigation; he apologized for his conduct and for not being able to control himself on that fateful day; the deceased was his friend and after a night of merry making a physical confrontation ensued between the deceased and himself which occasioned injuries to the deceased but the circumstances leading to her death were not pre-meditated; it was an unfortunate situation in which a life was lost; whilst in remand the accused has had time to reflect on his actions and he has taken positive steps to change and has undergone various course to help him manage his anger and to regain control of his psychological wellbeing;
 9. He was intensely remorseful and prayed for justice to be tempered with mercy; the accused seeks forgiveness from the deceased’s family; he stated that he was aged 27 years and the second born in his family; his parents were aged and he used to help them; his actions and incarceration had brought shame to his family and soiled their reputation and he prayed for lenient sentence preferably non-custodial and urged the Court to give him a second chance to enable him integrate back into society and enable him to take care of his aged parents;
 10. Prosecuting counsel submitted that the life that once snuffed out was irrecoverable and it was imperative that the family of the deceased receive justice; the prosecution had no previous records of the convict; Counsel called for a Pre-Sentencing Report to assist in the Court in passing sentencing.

Analysis

11. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows;

‘Any person who commits the felony of manslaughter is liable to imprisonment for life’
12. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are that the accused’s choice of a deadly weapon in the form of a knife which he used to defend himself; the accused had anger management issues and ought to have exercised restraint during the altercation which then led to a life being lost; The mitigating factors are that the circumstances leading to the unfortunate incident demonstrate that the accused had no premeditated intention; by accepting the Plea Bargain Agreement the accused had not wasted judicial time;
13. Other factors taken into consideration is the Victim Impact Assessment Report; Having perused the Report it is noted that the accused had taken reconciliatory steps with the victims’ family; it is noted that the family had come to terms with their daughter’s demise and harboured no grudge and had forgiven him.



14. The accused is a young man aged 27 years; the prosecution had no previous records and that he be treated as a first offender;
15. In the light of the above, this Court is satisfied the accused is deserving of a custodial sentence to act as a deterrent to persons in the wake of the current surge in femicide arising from rejection issues and or anger management issues and in their anger are ready to strike out which actions have grave consequences; the Court finds the appropriate sentence to be that of Ten (10) years.
16. The accused was arrested on 20th May, 2021 and was convicted on the 21st November, 2024; the accused had been granted bail but was unable to satisfy the bond terms has been in remand for a period of over three (3) years and six (6) months. The accused is found to be deserving of the benefits of Section 333(2) of the Criminal Procedure Code and the period spent in remand be deducted from the term of imprisonment.

Findings & Determinations

17. Having taken all factors into consideration this Court makes the following findings and determinations;
 - i. The accused is convicted on his own plea of guilty for the offence of Manslaughter;
 - i. The accused is hereby sentenced to a Ten (10) years custodial sentence. The period spent in remand of four (4) years be deducted from the sentence.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 9th DAY OF MAY, 2025.

A. MSHILA

JUDGE

In the presence of;

Sanja – Court Assistant

Gacharia – Prosecuting Counsel for the State

Karanja – for the Accused

Accused - present

