



**Republic v Aduke (Criminal Case E024 of 2024)
[2025] KEHC 7375 (KLR) (8 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 7375 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
CRIMINAL CASE E024 OF 2024**

OA SEWE, J

MAY 8, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

GEOFFREY OCHIENG ADUKE ACCUSED

SENTENCE

1. The accused, Geoffrey Ochieng Aduke, 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. It was alleged that on the 21st day of August 2024 at Kamchinga Village, Wangchieng Location in Rachuonyo East Sub County within Homa Bay County, he murdered Duncan Otieno Aduke, who was his brother.
2. The parties thereafter negotiated a Plea Agreement which was approved and adopted by the Court on 27th 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. In mitigation, counsel for the accused stated that the accused highly regretted the unfortunate events that led to the untimely death of his younger brother, and that he was shocked by the outcome. Counsel further pointed out that the accused is 48 years old and that he has otherwise been a law-abiding citizen. He is a father of four and not only supports his wife and children but also takes care of his widowed 70-year-old mother. The accused therefore prayed for leniency on the basis of the factors set out on his behalf by his counsel.
5. The Court called for a Pre-Sentence Report as well as a Victim Impact Assessment Report, which were duly filed. The reports show that the immediate family has forgiven the accused and is ready to accept him back. I have also noted that the accused was otherwise a law-abiding Kenyan who may have overreacted to the situation at hand. Thus, having taken all the foregoing factors into account, including that fact that he has been in custody all along, the accused, Geoffrey Ochieng Aduke, is hereby placed on probation for a period of 3 years. The conditions thereof have been explained to him for purposes of compliance.

It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 8TH DAY OF MAY 2025

OLGA SEWE

JUDGE

