



**Republic v Ndege (Criminal Case E019 of 2023)
[2025] KEHC 5877 (KLR) (8 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 5877 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E019 OF 2023**

JM NANG'EA, J

MAY 8, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

BILDAD OTIENO NDEGE ACCUSED

SENTENCE

1. The convict herein pleaded guilty to the lesser offence of Manslaughter Contrary to Section 205 of the [Penal Code](#) after initially being charged with Murder Contrary to Section 203 as read with Section 204 of the same [Code](#). This was the culmination of plea bargain between the Director of Public Prosecutions and the accused pursuant to the Section 137A of the [Criminal Procedure Code](#).
2. In her mitigation submissions the defence Counsel (Ms Githae) told the court that the convict is 40 years old. He and the deceased, his spouse, were drunk when he caused the death in question. Urging the court to consider a non-custodial sentence, Counsel wants her client to be given credit for entering into the plea bargain and the fact that he has no previous convictions be taken into account. He is also said to have made an offer for reconciliation with the deceased's family which has been accepted. The court is further told that the accused has been in remand custody since his arrest on 28th March 2023.
3. For these reasons inter alia, the court is urged to temper justice with mercy and hand her client a non-custodial sentence.
4. The Prosecution Counsel (Ms Sang) replies that although the offender has no previous criminal records and agreed to the plea bargain, the court should take into account that a life was lost and the deceased's family suffered untold psychological distress and therefore a custodial sentence is warranted. According to Counsel, a non-custodial sentence is not appropriate in the circumstances of the case. It was also pointed out that the Prosecution proposed an imprisonment term of 10 years in the recorded Plea Agreement.



5. I have considered the submissions against the applicable principles of sentencing and the operational *Judiciary Sentencing Guidelines* 2023. It is noted that the offender has no criminal antecedents. It is a mitigating factor that he entered into the Plea Agreement and thus helped reduce costs which is in keeping with public policy. He is at what can be described as his prime age.
6. The Probation Officer's pre-sentence report dated 11th March 2025 indicates that the families of the offender and the victim's mother have attempted reconciliation but one member of the deceased's family was opposed. The convict's family members are said to be unwilling to act as his guarantors in the event of a non-custodial sentence because of his previous conduct.
7. It is therefore recommended in light of the foregoing that the court may exercise its discretion otherwise than meting out a non-custodial sentence.
8. Having considered the relevant factors, I concur with the prosecution Counsel that a custodial sentence is imperative to better deter the offender, also considering the Probation Officer's observations that it may not be possible to supervise execution of a non-custodial sentence. While I appreciate the stated mitigating circumstances, the accused perpetrated a vicious attack against his wife who would ordinarily be expected to depend on him for protection. That he was drunk is not an acceptable excuse.
9. Doing the best I can, I sentence the offender to 12 years (Twelve Years) imprisonment to commence from the date of his arrest on 28th March 2023 as per the charge sheet and information presented before the court.
10. The offender has 14 days to appeal the sentence.

RULING DELIVERED THIS 8TH DAY OF MAY, 2025 IN THE PRESENCE OF:

J. M. NANG'EA, JUDGE.

The Prosecution Counsel, Ms Sang

Ms Githae Advocate for the Convict

The Convict, Present

The Court Assitant (Jeniffer)

J. M. NANG'EA, JUDGE.

