



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Msaji (Criminal Case E003 of 2023)
[2025] KEHC 8740 (KLR) (20 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 8740 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL CASE E003 OF 2023
AN ONGERI, J
JUNE 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MWAMBURI MSAJI ACCUSED

SENTENCE

1. The Accused Person was charged with murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The Accused Person entered into a plea bargain agreement and he pleaded guilty to the charge of manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#).
3. The particulars of the charge of manslaughter are that on 14th October 2022 at Bura Location in Mwatate Sub-County within Taita Taveta County, the Accused Person unlawfully killed Joram Mwalimadu Shako aka Dancan.
4. The facts of the case as given by the prosecuting counsel were as follows:-

The accused person herein Mwamburi Msaji and the deceased were herders at Mtangoni village.

On 14th October 2022 both the accused went to the deceased's house to drink alcohol. While at the deceased's house a dispute arose between them. The deceased threatened the accused that "he was going to do something to him that he will never forget in his life." They then started fighting leading to the accused picking an axe which was near the door. He proceeded to hit the deceased twice on the head with the axe. The deceased fell and lay on the bed whilst the accused left the house. On 14th October 2022 Philicia Mkamburi, the deceased's employer, went to the deceased's house and found him lying on the bed motionless. She immediately made a report at Bura Police Station. Police officers from Bura arrived and processed the scene. The deceased body was then taken to Moi hospital mortuary in Voi.



On 21st October 2022 a post mortem was conducted establishing the cause of death being severe head injury secondary to multiple deep scalp fractures.

The accused person was later arrested and charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code which has now been substituted to that of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.

5. The Accused Person pleaded guilty to the charge of manslaughter and he was convicted on his own plea of guilt.
6. The Probation Officer filed a pre-sentence report which I have duly considered.
7. I have also considered the mitigation on behalf of the Accused Person as given by his Counsel.
8. The pre-sentence report is favourable. There is evidence that the Accused Person and the deceased were drinking alcohol when a fight ensued and the Accused hit the deceased with an axe on the head.
9. The Accused Person has mental challenges and has been undergoing treatment and is known to abuse alcohol.
10. The Accused Person is committed to 3 years probation on condition that he complies with the requirements of the probation sentence.
11. During that period, the Accused Person to continue with his medication for his mental challenges.
12. The Probation Officer to organize for counselling services.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF JUNE, 2025 IN OPEN COURT AT VOI.

ASENATH ONGERI

JUDGE

In the presence of:-

Court Assistant: Millicent

