



**Republic v Alombe (Criminal Case 74 of 2018) [2025] KEHC 8170 (KLR) (10 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8170 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA**

**CRIMINAL CASE 74 OF 2018**

**AC BETT, J**

**JUNE 10, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**EVANS JOSEPH ALOMBE ..... ACCUSED**

**RULING**

1. The Accused was convicted of the charge of manslaughter contrary to Section 202 of the Penal code in a judgement written by Justice P.J. Otieno who has since been transferred and delivered by me on 27.2.2025.
2. In mitigation, the Accused pleaded that he is a first offender and being a police officer, will most likely lose his job upon conviction after faithfully serving the citizens of the Republic of Kenya since 2006.
3. It was the Accused’s submissions that he has undergone psychological training course which has lasted seven (7) years. He also said that he is the sole breadwinner in his family and is blessed with two children who have special needs being mentally challenged. He urged the court to consider a non-custodial sentence since the pre-sentence report is favourable.
4. On its part, the prosecution urges the court to mete out a sentence that matches the offence and where justice will have been seen to have been done.
5. The pre-sentence report indicates that the Accused maintains that he acted due to a perceived threat and did not intend to kill the deceased but feared for his life given the high incidence of crime in the area at the time of offence.
6. The Accused is said to deeply regret the outcome of his action that was driven by fear and panic and to acknowledge on hindsight that he could have handled the situation differently.
7. The victim’s family was profoundly aggrieved and faced hardship after the death of the deceased who was their sole provider and defender. According to the deceased’s mother and son, they have faced



severe hardship since they lost their loved one and have even been evicted from their family land due to unresolved family disputes forcing them to relocate to a rental house which significantly impacted their financial stability. The family is opposed to a non-custodial sentence stating that the Accused has never approached them for reconciliation or any form of redress.

8. The community on the other hand regards the Accused positively as a polite law-abiding individual who has been a role model in the community. He has employed the expertise as a police officer to assist in managing the local community policing group. The Toror Administrator recognized the Accused as a person with strong community ties, well integrated and an active participant in local development initiatives and for that reason, the community recommends a non-custodial sentence.
9. In concluding pre-sentence report, the probation officer recommends a probation sentence of upto three years or a lenient sentence.
10. The offence was committed at about 4am to 5am. At the material time, the Accused was on patrol with his colleague who had excused himself to answer a call of nature so the Accused was alone. In the premises, no one knows the circumstances that led to the unfortunate shooting. PW2 stated that he arrived after the deceased had died only to find the body lying down next to a panga and a bag of maize.
11. The Accused's defence was that the deceased accosted him while holding a panga and in reaction, he introduced himself as a police officer and commanded him to stop which the deceased ignored. The Accused said that since the deceased did not retreat, he tried to run away but tripped and fell and on looking up, saw the deceased ready to strike with the panga prompting him to use the firearm in self defence.
12. The circumstances of the offence are that the Accused made the wrong decision when he was faced with the threat. He could have shot in the air in the first instance instead of opting to flee and therefore tripping and falling down therefore become vulnerable. Certainly, a panga is far less superior than a rifle. And a gunshot in the air would no doubt scared away the deceased, who was alone.
13. Be that as it may, the Accused having made the initial mistake found himself on the ground and resorted to the nearest weapon to defend himself, which was the gun. However, instead of pulling the trigger once and releasing it, he held onto it thereby discharging 20 bullets onto the deceased. It did not come out clearly whether the firearm was automatic or semi-automatic.
14. In my analysis, the action of the Accused depicts a person who had been rendered unreasonable by panic otherwise he would not have discharged all the ammunitions on his victim. This was a disproportional where use of force for an officer whose duty is to protect the citizens of the Republic of Kenya. The Accused bears a higher degree of culpability in the circumstances.
15. I have taken into account the circumstances of the offence, the Accused's mitigation and the pre-sentence report. In the case of *Josephat Marti v Republic* [2025] KECA 641 (KLR), the Court of Appeal upheld a sentence of 20 years for the appellant who had been convicted of murder was said to have gone into a bar while saying he would kill someone and shortly thereafter shot the deceased.
16. Taking into account the entire circumstances, I find that this a case where a custodial sentence is appropriate, I hereby sentence the Accused to seven (7) years imprisonment. The sentence shall start from the 25.03.2025 when the Accused was placed in custody after judgement was delivered.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 10<sup>TH</sup> DAY OF JUNE 2025.**

**A. C. BETT**

**JUDGE**



In the presence of:

Ms. Chala for the Prosecution

Mr. Ashioya for the Accused

Court Assistant: Polycap

