



**Republic v Abdille (Criminal Case E008 of 2024)  
[2025] KEHC 10080 (KLR) (14 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10080 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT GARISSA  
CRIMINAL CASE E008 OF 2024**

**JN ONYIEGO, J  
JULY 14, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**OMAR DUBOW ABDILLE ..... ACCUSED**

**SENTENCE**

1. The accused herein is charged with the offence of murder contrary to section 203 as read out with section 204 of the *penal code*. Particulars are that on the 3<sup>rd</sup> day of July 2024 at Boka area, Bangale sub-county, jointly with others not before the court murdered Abdile Nadhir.
2. Having pleaded not guilty, the matter was set for hearing. However, after taking evidence from three witnesses, there was engagement and negotiation between the victims’ family and that of the accused. With the guidance of the defence and prosecution counsel, a plea-bargaining agreement was arrived at and subsequently executed by both parties on 16<sup>th</sup> May, 2025.
3. In the said agreement which involved both families forgiving each other and some bit of compensation to the victim’s family, the accused agreed to plead guilty to committing a lesser charge of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*. He subsequently pleaded guilty on 3<sup>rd</sup> July, 2025 and accordingly got convicted the same day. The court then ordered for a pre-sentence report.
4. According to the report, the accused is unsuitable for a non-custodial sentence but may be considered for a lenient custodial sentence. In mitigation, accused pleaded for leniency citing grounds that he is a first offender, has 11 children who depend on him and that he is remorseful.



5. It is trite that sentencing is at the discretion of the trial court. See *Kipkoech Kogo - vs - R.* Eldoret Criminal Appeal No.253 of 2003 where the Court of Appeal stated thus: -

“sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered (see also *Sayeka - vs- R.* (1989 KLR 306)”

6. Similar position was stated by the court of appeal in *Bernard Kimani Gacheru vs. Republic* [2002] eKLR where it was stated that:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

7. It is however worth noting that in exercise of its discretion, a court is duty bound to take into consideration certain guiding principles interalia; the aggravating nature of the offence committed; the mitigating factors; pre-sentence report; previous criminal record of the accused; and victim impact assessment report. See judiciary sentencing policy guidelines clause 4.5 of 2023.

8. This court is pretty aware of the objectives of sentencing which are also captured in the judiciary sentencing policy guidelines clause 1.3.1 of 2023 as; retribution, deterrence, rehabilitation, restorative justice, community protection, denunciation, reconciliation and reintegration.

9. I have considered circumstances under which the offence was committed. I have also considered mitigation on record. Accused had no justification to warrant killing the deceased in cold blood simply because he had married his X wife. He is not remorseful. However, he has saved court’s time by pleading guilty and he is a first offender. In the circumstances, I will find a sentence of 15 years imprisonment suitable. In imposing this sentence, I have already factored in the period he has been in remand custody

ROA 14 days

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 14<sup>TH</sup> DAY OF JULY 2025**

.....

**J. N. ONYIEGO**

**JUDGE**

