



REPUBLIC OF KENYA



**Republic v Waithira (Criminal Case E053 of 2021)  
[2025] KEHC 10429 (KLR) (11 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10429 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE E053 OF 2021**

**A MSHILA, J**

**JULY 11, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DANIEL WAINAINA WAITHIRA ..... ACCUSED**

**SENTENCE**

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*; upon a Plea Bargain Agreement being entered the Charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 5<sup>th</sup> March, 2025 was adopted by the Court upon being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit and without threats, force, intimidation or coercion of any kind;
3. The accused was charged with having unlawfully killed Michael Ndungu Murimi on the 25<sup>th</sup> September, 2021 at Gikambura Village in Kikuyu Sub-County, within Kiambu County;
4. The facts as read out by the Prosecuting Counsel are as follows; The deceased was a motor bike rider; Accused requested to be ferried home and the deceased agreed; accused wanted to pay Kshs.45/- but the y settled for Kshs.50/-. The accused produced Kshs.200/- and asked for change before he could release the money; deceased told him that he did not have that change; an altercation ensued whereupon the accused took out a knife and stabbed the deceased on the neck; the other pillion passengers rushed deceased to the nearest dispensary but they found it closed; they took him home and his mother wasted no time in rushing the deceased to Oakwood Hospital where he was pronounced dead on arrival;
5. The post-mortem was conducted on 29/09/2021 by Dr.Njeru and the report revealed that the cause of death was a single penetrating sharp force trauma; in otherwords a stab injury inflicted by a knife.



Prosecuting Counsel produced the Post Mortem Report dated 29/09/2021 which was marked as 'PEXh.1';

6. The accused stated that the facts as narrated by the Prosecution were correct and the Court proceeded to convict him on his own plea of 'Guilty' for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the [Penal Code](#);
7. The accused was represented by Learned Counsel Mr. Kololo whereas Mr. Gacharia was the Prosecuting Counsel for the State; Both Counsel were invited to make submissions before sentencing;
8. Counsel submitted that the accused was a husband and sole bread winner of the family and a father of one child aged four (4) years who were all totally dependent on him; The accused was extremely remorseful and prayed for justice to be tempered with mercy and that he be given a non-custodial sentence; he had readily pleaded guilty at the earliest onset and thus saved on judicial time; the prosecution had no previous records and that he be treated as a first offender; He urged the Court to consider the accused's youthful age of 30 years and prayed for a lenient sentence preferably a non-custodial sentence on the grounds of his youth and that it would give him a chance to reintegrate back into society;
9. Prosecuting counsel submitted that the life that was once snuffed out was irrecoverable and it was imperative that the family of the deceased receive justice; the prosecution had no previous records of the convict; a Pre-sentence Report be called for to assist the Court in the sentencing

### **Analysis**

10. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the [Penal Code](#) which reads as follows;

Any person who commits the felony of manslaughter is liable to imprisonment for life'

11. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors was the accused's weapon of choice namely a knife; and his anger management which had clouded his sense of judgment and ought to have exercised restraint as he attempted to exert change from the deceased; The mitigating factors is that the offence was not premeditated; and the accused's youthful age being 30 years of age; by accepting the Plea Bargain Agreement the accused had not wasted judicial time;
12. Having perused the Sentencing Report, it is noted that the accused had taken any reconciliatory steps with the victims' family; both families had met and reconciled and the deceased's mother out of mercy found it fit to forgive him; it is noted that the family of the deceased had not come to terms with the demise of their son and had not forgiven the accused; the members of the community are willing to accept him back;
13. In the light of the aggravating factors such as the choice of weapon, anger management this Court is satisfied that the accused is deserving of a custodial sentence of Ten (10) years. The custodial sentence to act as a deterrent to those who have anger management issues and their reactions at times have fatal consequences.

### **Findings & Determinations**

14. Having taken all factors into consideration this Court makes the following findings and determinations;
  - i. The accused was convicted on his own plea of guilty for the offence of Manslaughter;



- ii. The accused is hereby sentenced to a term of Ten (10) years custodial sentence.
- iii. Period from date of arrest that is 26/09/2021 to 17/01/2023 when he was released on Bond terms be deducted from his sentence.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 11<sup>th</sup> DAY OF JULY, 2025.**

**A. MSHILA**

**JUDGE**

In the presence of;

Sanja – Court Assistant

Gacharia – Prosecuting Counsel for the State

Kololo – for the Accused

Accused – present out on Bond

