



**Republic v Moranga (Criminal Case 17 of 2023)
[2025] KEHC 9895 (KLR) (10 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9895 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 17 OF 2023**

**DR KAVEDZA, J
JULY 10, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOHN ONDERA MORANGA ACCUSED

JUDGMENT

1. The accused John Ondera Moranga was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63 laws of Kenya. The particulars are that on the night of 15th December 2018 at about 2300 Hrs at Langata in Raila Slums area, within Nairobi County murdered Joshua Obutu. The accused pleaded not guilty to the charge.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter and signed a plea agreement on 14th November 2024. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as outlined in the plea agreement, are as follows. On 15th December 2018, at about 6.00 pm, at Raila Slums in Langata Sub-County, Nairobi County, the deceased’s wife, Nancy Naliaka Nelima, received a call from her husband, Joshua Obutu. He instructed her to go to a butchery operated by the accused to collect meat worth Kshs 100 and cash of Kshs 100 as part of a debt owed to him. The accused refused to give her either the meat or the money, chased her away, and told her that he did not deal with women and that the deceased should come in person.
4. The deceased then told his wife to visit their neighbour, Linda, to borrow money for supper. Linda gave her Kshs 200, which she used to buy meat from the accused’s butchery.
5. The deceased returned home at about 6.30 pm but did not stay long. He stated that he needed to deliver clothes to a customer and would also pass by the accused’s butchery to collect the money owed.



- He found the accused outside his butchery, drinking wine with Wilson Mocha Ondieki (his brother) and Shadrack Tungu (his cousin). He greeted them but did not sit down, appearing to be in a hurry. He asked Wilson to hold his bag of clothes as he went to follow up with other customers. He did not return to collect the bag. The others continued drinking and dispersed at about 8.45 pm.
6. The deceased returned home briefly at about 7.30 pm, handed over the clothes to his wife, and told her he had not found the customer. He asked her to prepare bathing water outside the house in a makeshift bathroom. He did not come back inside.
 7. Mark Obwoye Masinga, a neighbour, later saw the accused and the deceased fighting at about 10.50 pm. He did not inquire into the cause of the fight. The accused then went into his butchery, took a knife, locked the back door, and followed the deceased, who was walking home.
 8. The accused caught up with the deceased, confronted him, and another fight ensued. The deceased questioned why the accused was following him. During the scuffle, the accused drew a knife from his waist and stabbed the deceased in the right side of the chest. The accused fled the scene, leaving the knife lodged in the deceased's chest. The deceased collapsed, bleeding heavily, with no immediate help.
 9. At about 11.15 pm, the accused called Wilson Mocha Ondieki and asked him to come out as the deceased was disturbing him. Wilson declined, dismissing it as a petty issue. The accused called again, insisting that Wilson come and restrain his brother.
 10. Wilson went outside to find his brother. He checked along the road but could not see him. He tried to call the deceased's phone but found both Safaricom numbers switched off. He then went to Mbete Bar to look for him. A bar attendant informed him that the deceased had been fighting with the accused near a water point.
 11. While still at the bar, another attendant, Nyawira, told him, "Simba, you know your brother is lying down over there." Wilson went to the indicated spot and saw what appeared to be a person's head. On closer inspection, he found the deceased lying on his back, shirtless and without shoes.
 12. Wilson saw what looked like a stick protruding from the right side of the deceased's chest. He pulled it out and realised it was a knife. He then called the deceased's wife, who said her husband had gone to bathe outside. Wilson asked her to come and led her to where the deceased lay.
 13. Wilson stood in the middle of the road, trying to stop passing vehicles. A white Toyota Corolla stopped, and a Good Samaritan helped him lift the deceased into the car. They took him to St. Mary's Hospital, where he was pronounced dead on arrival.
 14. Wilson asked the doctor for an envelope to keep the knife. He reported the matter at Langata Police Station and handed over the knife to the police. Photographs were also taken at the hospital.
 15. A post-mortem was conducted on 17th December 2018 at Chiromo Mortuary. It revealed a single stab wound on the right side of the chest, measuring 3 cm wide, located on the fourth intercostal space, 5 cm from the sternum, and 8 cm medial to the right nipple. The cause of death was determined to be severe haemorrhage due to a penetrating chest injury.
 16. The knife was submitted to the Government Chemist for analysis on 18th December 2018. Results dated 14th January 2020 confirmed the knife was moderately stained with human blood. The DNA profile showed the blood matched the DNA obtained from the deceased's fingernails.
 17. The accused was arrested on 22nd March 2019 at Metamaywa Shopping Centre in Kisii County. He was brought to Nairobi and charged. A mental assessment carried out on 28th March 2019 at Nairobi Police Headquarters found the accused mentally fit to stand trial.



18. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that, the accused's constitutional rights had not been violated during the negotiation process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.
19. In mitigation, Mr. Nyamagwa, Counsel for the accused, submitted that the accused is remorseful and that efforts were made by both families to reconcile. He stated that the accused's family sought forgiveness from the victim's family and that both sides agreed the accused and the deceased were under the influence of alcohol at the time of the offence. He urged the Court to note that the accused is a first offender and the sole breadwinner for his family and that his mother is a single parent.
20. He further submitted that the probation report is favourable and supports a non-custodial sentence. Counsel added that the families agreed the accused would make a token payment of Kshs 400,000 as blood money, with Kshs 20,000 already paid to the victim's family, and asked the Court to treat this as a sign of genuine remorse and willingness to make amends. He therefore prayed that the Court consider a non-custodial sentence in view of the offender's circumstances, his guilty plea, and the efforts made towards reconciliation.
21. Ms. Maina learned Prosecution Counsel, opposed the plea for a non-custodial sentence. She submitted that there was no evidence on record to confirm any family meeting or payment of blood money and that the alleged payment was not captured in the pre-sentence report. She noted that no agreement, minutes, or affidavit from the victim's family had been produced to support the claim. Counsel further submitted that the accused's version of events was inconsistent, as he told the Probation Officer he was not drunk at the time and only drank a soft drink.
22. She urged the Court to consider the circumstances of the offence, noting that the deceased was unarmed and defenceless when he was stabbed. The accused followed the deceased from the butchery, armed himself with a knife, and attacked him without provocation. She argued that this showed premeditation. Ms. Maina also drew the Court's attention to the fact that the accused fled to Kisii after the offence, conduct which she said reflected a lack of remorse. She asked the Court to take into account the gravity of the offence, the young age of the deceased who had just completed college, and the impact on the victim's family. She urged the Court to impose a custodial sentence.
23. Two pre-sentences reports are on record. The first pre-sentence report shows the offender is married with three children and he was their sole provider. His wife describes him as caring and supportive. She pleads for a non-custodial sentence and promises to help him comply. The offender shows remorse and blames his actions on intoxication. He says he has quit drinking, was baptised, and has stayed sober since 2018. He promises to live without drugs and to handle conflict peacefully.
24. The victim, Joshua Obutu, was 22 years old. He left behind a wife and child. He and the offender were friends and business partners. Joshua's elder brother and other relatives say they are still deeply pained. However, they have chosen to forgive. They do not oppose a non-custodial sentence. They accept that anger will not bring the deceased back.
25. In contrast, the second pre-sentence report reveals deeper fractures within the victim's family. It highlighted the profound psychological impact of the sudden death on the deceased's parents. Notably, the victim's wife left after the burial and her whereabouts remain unknown. Custody of their child fell to the victim's brother, who says that he was excluded from the compensation arrangements.
26. The report mentions that the offender's sister had attempted to reconcile by offering Kshs 400,000 in instalments and two cows, in line with customary practices. However, the father of the deceased stated he did not fully understand the agreement, and the mother declined to sign it altogether. This



compensation arrangement has caused division within the family, particularly because the deceased's child was not included. It appears that the elder brother, Wilson, has been receiving payments, a fact disputed by the parents, who insist the child must benefit too. The brother caring for the child expressed indifference towards a non-custodial sentence, citing his exclusion from discussions and the ongoing family discord.

27. From these two reports, the court discerns a clear and important shift. The initial signs of forgiveness and support for rehabilitation, as seen in the first report, are now undermined by divisions within the victim's family, unresolved grief and a disputed compensation agreement. The first report paints a picture of a family that, though grieving, has chosen to forgive and wishes the offender to be given a chance to rebuild his life outside prison. The second report, however, reveals deeper wounds that have not fully healed.
28. The lack of consensus within the family, the exclusion of the deceased's child from any compensation arrangement, and the disagreement about how payments have been handled, all point to a fragile reconciliation. It is clear that any sentencing must weigh the offender's genuine remorse and efforts to reform against the continuing pain and sense of injustice felt by parts of the victim's family, and the paramount welfare of the deceased's child.
29. Notably, he has reformed by quitting alcohol and living sober. The victim's family acknowledges their former good relationship, has forgiven him, and does not oppose a non-custodial sentence. The court finds the offender's conduct since the offence, the family's forgiveness, and the community's position favour a rehabilitative rather than punitive sentence.
30. The penal section for the offence of manslaughter is contained in section 205 of the *Penal Code* which provides: -
Any person who commits the felony of manslaughter is liable to imprisonment for life.
31. The court of Appeal in *Thomas Mwambu Wenyi v Republic* (2017) eKLR cited the decision of the Supreme Court of India in *Alistar Anthony Pereira v State of Maharashtra* at paragraph 70-71 where the court held as follows on sentencing:

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence”

32. I have considered the seriousness of the offence, the principles of proportionality, deterrence, and rehabilitation, as well as the views of the victim's family. While the Court notes the probation officer's assessment that the offence was not premeditated and the recommendation for a non-custodial sentence, the facts on record paint a different picture. The offender armed himself with a knife, followed the deceased, and attacked him when he was unarmed and defenceless. Such conduct cannot



be ignored. The violent killing of a young father who had responsibilities to his family has caused deep pain and lasting hardship to his loved ones.

33. The Court must ensure that the sentence reflects the seriousness of taking a life and sends a clear message that such acts will not be tolerated. In balancing the offender's remorse and his personal circumstances with the need for justice for the victim and his family, I am persuaded that a custodial sentence is warranted to meet the ends of justice and serve as a deterrent to others.
34. The *Constitution* recognises the rights of both the accused and the victims. The accused has been in custody since 2019 when he was arrested. To release the accused after only six years in custody would undermine the interests of justice and risk conveying the impression that the court has failed to hold the accused adequately accountable for the offence committed.
35. The court is persuaded that a custodial sentence is necessary and appropriate in the circumstances as, it will allow the accused to benefit from structured rehabilitation within the prison system, and thereby address the root causes of his offending and reduce the risk of reoffending.
36. In the circumstances, I would have sentenced the accused to thirty (30) years imprisonment, however, having pleaded guilty, he is entitled to an incentive. In the premises, I sentence the accused John Odera Moranga to fifteen (15) years imprisonment. The sentence shall run from 19th March 2025, the date of his conviction less the two (2) months and five (5) days spent in remand custody pursuant to section 333(2) of the *Criminal Procedure Code*.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED THIS 10TH DAY OF JULY 2025

D. KAVEDZA

JUDGE

In the presence of:

Ms. Maina & Ms. Timoi for the Prosecution

Mr. Omagwa for the Accused

Accused Present

Ms. Karimi Court Assistant

