



**Republic v Obuya (Criminal Case E039 of 2024)
[2025] KEHC 10464 (KLR) (Crim) (8 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10464 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E039 OF 2024**

**AM MUTETI, J
JULY 8, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

VIVIAN NYAKEO OBUYA ACCUSED

SENTENCE

1. The accused person in this case was charged with the offense of Murder contrary to Section 203 as read with 204 of the *Penal Code*.
2. The accused person offered to plead guilty to the lesser offense of manslaughter which offer was accepted by the state and the prosecution filed a manslaughter information dated the 14th February 2025.
3. The manslaughter information was read over to the accused on 3/3/2025 and she pleaded guilty to the same.
4. The plea agreement was duly filed and accepted by the court. The facts were read out to the accused who admitted them to be true and correct.
5. The court consequently entered a plea of guilty to the Offence of Manslaughter and convicted the accused person accordingly.
6. The deceased in this matter was a child of tender years. The accused being the mother of the child was at the time engaged in alcohol abuse and apparently from the facts, she had difficulties raising the child.
7. The accused person threw the deceased into a river and she was swept away. The body was later recovered downstream.



8. The accused person in her mitigation expressed deep remorse over her actions and sought leniency of this court.
9. The accused person comes from a broken family and that probably could have contributed to her irresponsible behavior and alcohol abuse.
10. The deceased was only two years old when the incident happened. She was the only child of the accused who is now barely 23 years old, single and without a child. The accused at the time of her arrest was crying in the bar where she disclosed to her drinking mates that the deceased had been swept away. The accused must have been distressed at that time over the incident.
11. The accused person's social status is one that this court sympathizes with but the accused nevertheless must be reminded that even when times are so hard she must remain cool, calm and contended for she is not alone in this difficult journey of life.
12. The respect for human life is one that this court takes very seriously.
13. The deceased's right to life under Article 26 of the Constitution was unjustifiably and brutally cut short.
14. The deceased was an innocent child brought to this rough and tormenting world by the accused. She deserved to live her life notwithstanding the harsh realities of life that the accused had to contend with in fending for her.
15. The probation officer has recommended a non-custodial sentence with a bias towards a community-based model of rehabilitation.
16. This court is not persuaded that the accused would benefit much if she is put through a community-based mode of rehabilitation without being subjected to some form of punishment that would serve as a constant reminder to her that human life is precious.
17. The court, taking into account her relatively young age is constrained to impose a prison term that will provide the accused person an opportunity to learn some useful skills in the prison.
18. To release the accused back to society right away would not send the right message to her and the community she lives in. The court needs to send a message to the youth that when you get into the family way, please note that it comes with heavy responsibility and the answer is not to extinguish the life of a young child simply because you are unable to maintain them.
19. Consequently, taking into account all the mitigating circumstances the accused is sentenced to serve a prison term of 8 years to be computed from the 30th April 2024 when she was arrested and placed in custody.
20. The accused person is advised to take advantage of the period to receive counseling and learn some skill that may be of use to her when she eventually leaves prison.
21. To release the accused person back to the society at this point in time would not be appropriate for she requires rehabilitation away from company that might lead her back to the carousal mannerisms that brought her into conflict with the law. The environment that an individual is brought up within may influence their character and this appears to be the case for the accused. She needs to be kept away from her friends who apparently had a negative influence on her.
22. The prison environment will be good for her to achieve the goal of rehabilitation. She definitely will leave prison after 8 years a better person no doubt.
23. The accused person has a right of appeal against sentence within 14 days.



24. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 8TH DAY OF JULY 2025.

A. M. MUTETI

JUDGE.

In the presence of:

Court Assistant: Kiptoo

Ms Njoroge for the state

Kwoba holding brief Ndiege for the Accused

Accused: Present

