



**Republic v Wambui alias Junior (Criminal Case E021 of 2023)
[2025] KEHC 10328 (KLR) (Crim) (8 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10328 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E021 OF 2023
AM MUTETI, J
JULY 8, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

FRANCIS MIGWI WAMBUI ALIAS JUNIOR ACCUSED

SENTENCE

1. The accused person in this case was initially charged with the offence 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 offence of manslaughter and the state accepted the offer leading to the substitution of the charge of murder with that of manslaughter contrary to Section 202 as read with 205 of the *Penal Code*.
3. A plea agreement was concluded between the accused person and the state and the same was filed in this court on November 2024.
4. The same was adopted by the court and forms part of the record of this court.
5. The manslaughter information was read to the accused and he pleaded guilty to the same.
6. The prosecutor read out the facts to the accused in open court and he admitted the facts to be true and correct.
7. The accused was convicted on his own plea of guilty and the court went on to receive a victim impact statement from the deceased's family which was made orally by Beth Wanjiku Mwangi.
8. The said Beth Mwangi informed the court that the deceased was their last born and at the time of his death he was aged 38 years.



9. According to Beth the deceased's family had forgiven the accused. The family, according to Beth, acknowledged that no amount of punishment would bring back their kin to life.
10. The deceased died following an altercation between him and the accused which led to a fight.
11. The deceased is alleged to have pushed the accused in the course of the fight calling him a "kihii" a kikuyu word for the uncircumcised.
12. The accused hit the deceased on the head with a block of wood three times telling the deceased "wewe umenizoea sana".
13. The deceased fell down but after sometime woke up and staggered away.
14. The following morning, he was found dead at the Accra- Dubois road junction.
15. The deceased and the accused were street boys and seemingly from the facts and the mitigation by the accused, they were friends and the incident happened whilst the deceased was drunk. It is therefore possible that the drink had influenced the deceased to the extent that he may not have appreciated the anger that he would draw from the accused by calling him an uncircumcised boy which in the Kikuyu Language is derogatory.
16. The court appreciates the acceptance on the part of the state to reduce the offence of murder to manslaughter and commends counsel for that.
17. The court must also appreciate MR. OTIENO Counsel for the accused for properly counseling his client to make the offer.
18. The court encourages the full utilization of the provisions of Article 159 (2) (d) of *the Constitution* and the provisions of Sections 137A-O of the *Criminal Procedure Code* in resolving some of these cases.
19. It saves everybody's time and facilitates expeditious disposal cases.
20. The courts should only be left to deal with those matters that parties cannot by themselves through the application of alternative justice systems. It is only through the robust application of the law in this regard that our courts will realize a drastic drop in the number of cases that keep piling in our systems.
21. The accused by accepting to plead guilty to the lesser offence of manslaughter has saved the court useful time and he must get credit for that.
22. The offence of manslaughter attracts a maximum sentence of life imprisonment but the sentences that courts impose routinely vary in view of the aggravated nature of each particular case.
23. In the instant case the deceased was drunk and he insulted the accused.
24. In a sense he triggered the fight and provoked the accused.
25. The accused however did not have to hit him on the head thrice no matter the insult. He had the option of walking away but chose to punish the deceased senselessly.
26. The court must send a message to him that you do not have to fight to be a man.
27. The deceased did not have to die simply for calling him an uncircumcised man. Life is precious and the right to life must be zealously protected and upheld by all persons.
28. We cannot normalize the taking of human life at will because that will slowly but surely erode our humanity.



29. We must as a people learn to resolve our differences in less violent ways to minimize unwarranted loss of life.
30. The deceased's family may have forgiven the accused but the state has a cardinal responsibility to protect the lives of citizens. The citizens must know that taking the law into one's own hands has very grave consequences attendant to it.
31. The probation officer has recommended that non- custodial measures would not be tenable for reasons the officer has set out in her report.
32. The accused is said to have fled to the streets after falling out with his uncles thus he has no good support system back home that can guarantee his rehabilitation away from prison.
33. He does not have any surviving parent. To release him back to the streets immediately may not be desirable.
34. This court has considered all the circumstances of the case and in this court's view, in order to achieve the goal of rehabilitation of the accused, it is desirable that he serves some short prison term to offer him an opportunity to learn a life skill in prison.
35. The court finds that a sentence of 7 years imprisonment would be suitable and the accused person is hereby sentenced to the same.
36. The 7 years sentence is to be computed from the time he was arrested that being 1st April 2023.
37. The accused has a right of appeal against the sentence within 14 days from today.
38. 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

Njoroge for state

Otieno for Accused

