



**Republic v Mwangi (Criminal Case 30 of 2018)
[2024] KEHC 1605 (KLR) (21 February 2024) (Sentence)**

Neutral citation: [2024] KEHC 1605 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 30 OF 2018
SM MOHOCHI, J
FEBRUARY 21, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

MARTIN IRUNGU MWANGI ACCUSED

SENTENCE

1. Martin Irungu Mwangi was initially charged together with another, 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 May 31, 2022 was adopted by the Court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion;
3. The accused was accused of having unlawfully killed his own biological mother, Lucy Wambui Mwangi on the 14th day of June, 2018 at Munanda Village, within Subukia Sub-County in Nakuru County; and was convicted on his own plea of ‘Guilty’ to the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code;
4. At the hearing hereof, the accused was at all times represented by Learned Counsel Ms. Mwango Advocate whereas Ms. Jackie was the Prosecuting Counsel for the State; both counsels were invited to make submissions before sentencing was passed;
5. Prosecuting Counsel for the State submitted that, the offence of manslaughter carries a penalty of up to life imprisonment and that this Court has discretion to impose a sentence less than what is prescribed for in the law.



6. That the Plea agreement entered into recommends custodial sentence of fifteen (15) years imprisonment that the prosecution considers shall serve as sufficient retribution for the offence, considering the serious nature of the case the circumstances as per the facts and the fact that the accused had elected to plead guilty thereby saving the much-sought judicial time.
7. On his part the Accused submitted through Ms. Mwango advocate that, he is remorseful, he has a family that depends on him and has been in custody since 2014. He prays for the Court's leniency and a non-custodial sentence.
8. That the Pre-sentence report is unfavorable as the family of the accused/victim is unable to accept him back.

Analysis

9. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; this Court has considered the full circumstances of the offence which is contained in the Facts.
10. The *Sentencing Policy Guidelines* informs sentencing in Kenya to achieve proportionality, Equality, Uniformity, Parity, Consistency, Impartiality, Accountability/Transparency and Inclusiveness.
11. The applicable law on sentence 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’

12. The section provides for the maximum sentence, that is life imprisonment; this Court has taken into consideration the aggravating circumstances and the mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved on judicial time; also taken into consideration are the convict is a person living with a mental health condition that contributed to the offence committed, the victim was his own biological mother and he shall for the rest of his life live with this fact, the personal circumstances of the convict his remorse and being a first offender

Findings and Determinations

13. I am satisfied that the convict should be given a custodial imprisonment sentence. I noted that the convict is unwanted by his/victim immediate family and the community at large.
14. Punishment for manslaughter under section 205 of the *Penal Code* is up to life imprisonment. However, considering the fact that the accused has pleaded guilty to the lesser charge of manslaughter, the circumstances under which this offence was committed, the age of the accused and mitigations which include his responsibilities to third parties who are his children; an on the whole, taking into account the objects and guidelines on sentencing:
15. I hereby exercise discretion and sentence the accused person Martin Irungu Mwangi to serve Ten (10) years imprisonment, the accused has spent nearly six years in prison remand which period shall be taken into account as provided for in the proviso to Section 333(2) of the *Criminal Procedure Code*.
16. The sentence shall be calculated from the date of his arrest on the June 15, 2018.

Orders Accordingly.

DATED, SIGNED AND DELIVERED AT NAKURU ON THIS DAY OF 21ST DAY OF FEBRUARY, 2024.

S. MOHOCHI



JUDGE

