



REPUBLIC OF KENYA



**Republic v Njenga (Criminal Case 32 of 2020)
[2024] KEHC 1506 (KLR) (21 February 2024) (Sentence)**

Neutral citation: [2024] KEHC 1506 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 32 OF 2020
CW GITHUA, J
FEBRUARY 21, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

JULIA WANJIKU NJENGA ACCUSED

SENTENCE

1. The accused, Julia Wanjiku Njenga, was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) but she was convicted on her own plea of guilty for the offence of manslaughter under a plea bargaining agreement dated 7th November, 2022.
2. Briefly, the facts of the case are that on 22nd November 2020, the accused went to her mother's home where her children had gone to visit and she sent them to go and visit their auntie leaving her alone with the deceased, her youngest child who was then 2 ½ years old.

She later joined her children in her sister's home and gave her eldest daughter keys to her grandmother's house before she left. The daughter decided to go to their grandmother's home to check on her brother and on arrival, she found hr brother lying on a bed naked and upon examination, she confirmed that he was dead.

She called a neighbour who reported the matter to the police who in turn went to the home, collected the body and took it to Thika General Kago mortuary.
3. On the same day, the accused surrendered to Kandara police station and confessed to having killed her son.

When a post mortem examination was conducted on the body, the cause of death was established to be manual strangulation.



4. In the course of investigations, it was discovered that in the month of August and September of 2020, the accused had received treatment for mental illness at Thika level 5 hospital.
Her treatment notes were produced as P Exhibit 2.
5. In the plea in mitigation made by Mr. Ndegwa on behalf of the accused, the court was informed that the accused was 37 years old and that her mental illness began due to stress caused by the disappearance of her first born child in the year 2016; that despite her mental challenges she had continued to take good care of her children who were now living under the care of her 72 year old mother.
6. Counsel further submitted that during her stay in lawful custody, the accused has had time to reflect on her actions and she was extremely remorseful about what she did on the fateful day. He urged me to find that the accused was suitable for a non-custodial sentence which will facilitate her healing and wellness and also enable her to take care of her remaining children.
7. The pre-sentence report filed on 16th October, 2023 had similar recommendations noting in addition that social inquiries had revealed that the accused was not a danger to her family and members of her community.
8. On 6th February, 2024, I found it necessary to call for a comprehensive medical report on the accused's current mental status to guide the court in determining the appropriate sentence in this case.
The medical report was filed on 13th February, 2024 in which a consultant psychiatrist, Dr. Juliana Mbutia certified that the accused currently enjoyed stable mental health.
9. I have carefully considered the facts of this case, the plea in mitigation as well as the content of the pre-sentence report. The facts in this case are very sad and truly tragic. The accused snuffed out the life of her youngest child through manual strangulation for no apparent reason although there is evidence to indicate that she may have been suffering from some mental illness at the time.
10. Granted, the offence of manslaughter is a serious offence that attracts a maximum sentence of life imprisonment but taking into account all the relevant factors in this case including the fact that the accused is a 37 year old first offender who was mentally disturbed at the time she committed the offence, I find that a custodial sentence will not be appropriate in this case since it will not serve any of the objectives of sentencing.
11. I find that a non-custodial sentence would better serve the ends of justice so that the accused can participate in the life of her surviving children and continue with treatment and medication outside the confines of prison off course under the supervision of a probation officer.
12. In view of the foregoing, I exercise my discretion and sentence the accused to serve three years' probation on condition that during this period, she lives with her mother and she reports to the Probation Officer once every two months. The accused's mother and the probation officer to ensure that the accused continues with her medication and treatment.

Orders accordingly.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 21ST DAY OF FEBRUARY, 2024.

C.W. GITHUA

JUDGE

In the presence of:

The Accused



Susan Waiganjo Court Assistant

And in the absence of: Mr. Ndegwa for the Accused and Ms. Muriu Prosecution Counsel.

