



**Republic v Njogu (Criminal Case 4 of 2015)  
[2024] KEHC 1053 (KLR) (5 February 2024) (Sentence)**

Neutral citation: [2024] KEHC 1053 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CRIMINAL CASE 4 OF 2015  
RM MWONGO, J  
FEBRUARY 5, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**STEPHEN MURIITHI NJOGU ..... ACCUSED**

**SENTENCE**

1. The accused was charged with the murder of Isaac Muriuki Mutugi on February 9, 2015, at Itangi Sub-location Ngariama in Kirinyaga County. He was arraigned in court on March 10, 2015 and pleaded not guilty to the offence.
2. The hearing commenced and seven (7) prosecution witnesses testified. However, on June 20, 2022 the defence proposed a plea bargain agreement (PBA). There were delays in the negotiations, and the matter was finally given a date of October 4, 2023 for plea bargain agreement settlement.
3. On October 4, 2023, the parties availed the signed plea agreement pursuant to section 137A (i) and 137B of the *Criminal Procedure Code*. The plea bargain agreement dated November 11, 2022 was adopted by the court pursuant to section 137G of the *Criminal Procedure Code*. Further, the court was 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.
4. Accordingly, the Court adopted the PBA and thereby convicted the accused with the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*.
5. The state put forward the facts of the case as follows: On February 9, 2015, at about 7 pm the deceased and his younger brother visited Makuti food kiosk. The accused, being the husband to the owner of the kiosk assaulted the deceased's younger brother. The deceased confronted him but he stabbed him in the stomach twice with a knife. He was taken to Embu level 5 Hospital by motorcyclist, but and died while undergoing treatment.



6. The post-mortem report dated February 12, 2015 indicates that the deceased died due to excessive blood loss following a stab injury to the abdomen.
7. The Pre-Sentence Probation Report had been filed hence the matter proceeded for mitigation, which was as follows: The defence counsel made the following submissions: That the accused was a 1<sup>st</sup> offender and remorseful; That he is the bread winner of his family and has one child; that while in custody he went through vocational training; that he has been in remand custody for over 6 years from his arraignment up to November, 2021 when he was released on bail. That the offence was not intentional but due to intoxication. He further submitted that the probation report is favourable. He thus seeks a non-custodial sentence.
8. The prosecution submitted that the accused had caused the death of the deceased despite his intoxication. They sought for a custodial sentence due to the seriousness of the offence. The prosecution prayed for a custodial sentence of 5 years.
9. The Probation Officer's pre-sentence report noted: that the offender was remorseful for the act that occurred due to a drunken moment; that the community considered the offender as a peaceful person who was well known in the area; that the offender and deceased had been close friends for many years and had never fought before; that the deceased had one child and a wife, both of whom had since left to an unknown destination.
10. The Probation officer's report concluded that: the offender is not a threat to the community; that he had co-existed well with the community whilst out on bail; that he has a fixed abode and unlikely to abscond; that his parents and relatives were willing to help in the offender's rehabilitation process on a non-custodial sentence.
11. The report recommended a non-custodial sentence during which the offender would do community service at South Ngariama Dispensary.
12. I have taken into consideration the mitigation, the Probation Report and the entire circumstances of the case.
13. The probation report indicates that the accused is 37 years of age. His parents are peasant farmers who live on a three-acre piece of land. He is the first born of the family and has three siblings. The family relates well with each other and they are highly regarded in the village. The accused dropped out of school in class six due to poverty and poor supervision by the parents. He is a peasant farmer and married to Joy Wanja, a house wife. They have one child aged 7 years.
14. The accused is not viewed as a threat to the community and is not likely to be harmed by members of the public should he be released. The deceased was a close neighbor of the accused and they had no history of fighting. He was married with one child and his wife left to an unknown destination after he died. The two families agreed to mutually co-exist without any grudges.
15. 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’

The section provides for the maximum sentence that is life imprisonment.
16. This court has taken into consideration the aggravating circumstances in that the convict murdered the victim by stabbing him with a knife in the abdomen resulting in excessive bleeding, leading to his eventual demise.



17. In the case of *Francis Karioko Muruatetu & another v Republic* [2017] eKLR the Supreme Court gave guidance on circumstances to be considered before sentencing stating:

“In sentencing the court will consider mitigating factors such as the following;

- a. Age of the offender;
- b. Being a first offender;
- c. Whether the offender pleaded guilty;
- d. Character and record of the offender;
- e. Commission of the offence in response to gender-based violence;
- f. The manner in which the offence was committed on the victim;
- g. The physical and psychological effect of the offence on the victim’s family;
- h. Remorsefulness of the offender;
- i. The possibility of reform and social re-adaptation of the offender;
- j. Any other factor that the Court considers relevant.”

18. Taking into consideration the above sentencing guidelines and the Probation Report that recommended for a non-custodial sentence, the accused satisfies the criteria for a reduced sentence from the maximum life sentence imprisonment.

19. I therefore sentence the accused to 12 years imprisonment to be reckoned as follows:

- a. The accused is entitled to remission of one-third of his sentence which is 4 years leaving a balance of 8 years.
- b. Of these the accused was in remand custody for 6 years.
- c. The accused shall serve the balance of his sentence as a non-custodial sentence and perform community service at South Ngariama Dispensary.
- d. During his community service the accused shall also be engaged in a Guidance and Counselling programme facilitated by the Probation Officer, a record of which shall be maintained by the Probation Officer.

20. Orders accordingly.

**DATED AT KERUGOYA THIS 5<sup>TH</sup> DAY OF FEBRUARY, 2024**

.....

**R. MWONGO**

**JUDGE**

**Delivered in the presence of:**

Stephen Muriithi Njogu, the Accused, in person.

Otuke holding brief for Asimwe for the Accused

Mamba for the State



Murage, Court Assistant

