



**Republic v Kibellion (Criminal Case 65 of 2015)  
[2024] KEHC 5174 (KLR) (17 May 2024) (Sentence)**

Neutral citation: [2024] KEHC 5174 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE 65 OF 2015  
HI ONG'UDI, J  
MAY 17, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**KIBON KIBELLION ..... ACCUSED**

**SENTENCE**

1. Kibon Kibelion the accused herein was charged and convicted of the offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The court called for a pre-sentencing report which was filed by Mr. Samuel Ndung'u a Probation officer Nakuru on 14/02/2024. The same is dated 24/07/2023. As the court prepared to deliver the Ruling on sentence on 26/04/2024 a family member by the name Julius Toroitich Kibelion stood up in open court and presented an affidavit sworn by himself opposing the release of the accused on a non-custodial sentence. He claimed that the family of the deceased had never been consulted by the Probation officer.
3. This affidavit had never been filed in court. That being the case this court deferred the Ruling to 17/05/2024. The court further directed the incharge of Probation Nakuru County to take up the matter and file a fresh pre-sentencing report after consulting both families. A detailed report was thereafter filed by the incharge Probation M/s Kongani S. N. on 13/05/2024. The same is dated 9/5/2024.
4. In mitigation the defence counsel Mr. Ogolla submitted that the accused regretted his action of killing his bosom friend. He thus pleaded for leniency.
5. On his part Mr. Konga for the prosecution called for a custodial sentence against the accused.



6. I have considered the circumstances leading to the death of the deceased on 14<sup>th</sup> November, 2015. The accused and deceased were cousins. The Judgment in this case was delivered by Justice Chemitei on 21<sup>st</sup> June, 2023. The matter has therefore taken eight (8) years before finalization.
7. The accused has been in and out on bond. It is not disputed that through the accused's bitterness and careless action a life was lost. This will haunt him the rest of his life unless he seeks for mercy from the Almighty God.
8. The pre-sentencing report dated 9/5/2024 is very detailed and speaks on how the families and community view the accused who is now aged about 66 years now. In spite of the bitterness expressed by the deceased's family we all must learn to embrace reconciliation.
9. The pre-sentencing report shows that demarcation of the contested boundary would bring peace to the two (2) families. The report still recommends for a non-custodial sentence after a discussion with the two families, the chief and Assistant chief of Weseges Location and community members.
10. I therefore place the accused on probation for 3 years on the following conditions:
  - i. The Probation office, Chief and Assistant chief of Weseges location to organize for at least 2 meetings with the two families for purposes of reconciliation. This should be done within 12 months from now.
  - ii. The same team to make arrangements for a Surveyor to come and demarcate the problematic boundary within the next 6 months.
  - iii. The Probation office to file a report on the progress on or before 16/5/2025. Mention before the court on 28/5/2025 to confirm the progress.
  - iv. This Ruling to be served on incharge Probation Nakuru County.
11. Orders accordingly

**DELIVERED DATED AND SIGNED THIS 17<sup>TH</sup> DAY OF MAY, 2024 IN OPEN COURT AT NAKURU**

**H. I. ONG'UDI**

**JUDGE**

