



State v Odongo (Criminal Case E034 of 2022) [2024] KEHC 4951 (KLR) (9 May 2024) (Sentence)

Neutral citation: [2024] KEHC 4951 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E034 OF 2022**

RE ABURILI, J

MAY 9, 2024

BETWEEN

STATE PROSECUTION

AND

CALEB OGUTO ODONGO ACCUSED

SENTENCE

1. I have considered the mitigation by the accused person and his advocate Mr. Bagada.
2. The accused is a first offender. He is aged 33 years old. He has two (2) children with the adulterous woman who led him into this horrendous crime of passion. Her whereabouts are unknown. It is clear that she did enjoy lustful moments with the deceased, to the detriment of the accused.
3. The accused found his wife and the deceased having sex. He acted in anger, rage and sudden resentment of terror which rendered his mind incapable of cooling down on reflection.
4. Whereas murder was not on his mind, he nonetheless unlawfully killed the deceased upon being deprived of self-control which induced him to commit the offence.
5. He was not justified to take away life, but that is now water under the bridge.
6. This court has found him not guilty of murder but convicted him of the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*.
7. Punishment for manslaughter upon conviction is up to life imprisonment. However, considering the circumstances under which the offence herein was committed, the accused person's remorse and mitigations, being a first offender, I exercise discretion and sentence the accused person herein Caleb Oguto Odongo to serve one (1) year and six (6) months imprisonment.



8. As the accused now convict has been in custody from 6th December 2022 having surrendered himself to the police, therefore, unless otherwise lawfully held, Caleb Oguto Odongo is hereby set at liberty forthwith.
9. Mr. Bagada Advocate who represented the accused person on pauper brief basis is discharged from these proceedings and his fees be paid upon submission of the fee note and relevant supporting documents.
10. This file is hereby closed.
11. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 9TH DAY OF MAY, 2024

R.E. ABURILI

JUDGE

