



**Republic v Koskei (Criminal Case E025 of 2023)  
[2024] KEHC 9054 (KLR) (25 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 9054 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE E025 OF 2023  
PN GICHOHI, J  
JULY 25, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOSEPH TANUI KOSKEI ..... ACCUSED**

**SENTENCE**

1. The accused person (Joseph Tanui Koskei) was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) and to which he pleaded “Not Guilty” was entered.
2. Before parties could take directions on hearing dated, they entered into a plea bargain agreement dated 14<sup>th</sup> March 2024 on a charge of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#).
3. The particulars of the offence were that on the 22<sup>nd</sup> day of June 2023 at Kamwaura centre in Njoro Sub- County within Nakuru County unlawfully caused the death of Walter Cheruiyot Tuwei.
4. The facts were that on 22<sup>nd</sup> day of June 2023 at around 7 .00 pm, the accused and the deceased were at the Silent Bar within Kamwaura Trading Centre when the two got into a confrontation .
5. The accused person slapped the deceased on the face and he ( deceased ) fell down on the cement floor. The deceased then stood up and left the bar leaving the accused person enjoying his drink.
6. The deceased took a boda boda and proceeded home. While at the gate, the deceased sat on the ground and asked the *boda boda* rider to call the deceased’s wife. When she came to the gate, the deceased’s wife noted that the deceased was unable to talk. The boda boda rider assisted her to take the deceased to the house and placed him on his bed.



7. The following morning, the deceased's wife noted that the deceased had a swollen face and could not talk. The deceased's brothers and parents were notified and came home. They took the deceased to hospital. He was then referred to Provincial General Hospital Nakuru (PGH) where he was found to have a serious head injury and was admitted. The Deceased's family reported the case of serious assault before the deceased succumbed to the injuries on 26/06/2023.
8. Upon receipt of the news, the accused herein presented himself at Kamwaura Police Post where he reported what had transpired. He was arrested and the Directorate of Criminal Investigations (DCI) Njoro took over the matter. Post mortem was carried out and the Pathologists confirmed the cause of death as epidural hematoma with mass effect.
9. The deceased was charged with murder but reduced to manslaughter following the plea bargain. The accused admitted the charge and the facts upon which a "Plea of Guilty" was entered.
10. In regard to the accused's previous records, there were none and therefore, a pre-sentence report was called for by this Court. In mitigation, Ms Morande for the accused person urged the Court to consider that the accused and the deceased were close friends. There was no animosity between the accused and the deceased .
11. Further, Counsel told the Court that the accused is a bread winner and that he worked as a mason to support his family of six. That he was extremely remorseful that a mere slap on the deceased which caused the deceased to fall off and hurt his head led to the death of his friend.
12. Counsel further told the Court that the accused's family had sought reconciliation with the family of the deceased and the deceased's father had agreed to forgive the accused person.
13. She urged the Court to be guided by the *Sentencing guidelines* , consider that the accused has since undergone anger management while in prison and therefore be lenient to him in the circumstances by giving him a non- custodial sentence.
14. On his part, Mr. Kihara for the State urged the Court to pass an appropriate sentence .
15. The pre-sentence report by Mr. Salim A.G , a Probation Officer based at Nakuru and dated 25<sup>th</sup> June 2024 confirms that indeed the deceased and the accused person were close friends and that the incident occurred on the material date at a social drinking place though the accused had just entered and was not intoxicated but only acted out of provocation.
16. It was also indicated that the two families had started traditional reconciliation mechanism which has already born fruits , part compensation done and that the negotiations are still ongoing to embrace peaceful co- existence. That both families had agreed to make the needful compensation and wished to be given a chance to continue with the process to its conclusions.
17. Further, the report shows that the accused's attitude to the offence was that he had no intention to cause his friend such harm. That he was only provoked by the deceased who was inebriated and forcefully demanded alcohol from the accused. He was remorseful and sought leniency. He was agreeable to be guided on the need to pursue full traditional reconciliation and be enlightened to seek alternative ways of resolving disputes.
18. For those reasons, the report recommended that the accused person be placed on probation supervision for a period of three years.
19. Having heard the facts of the case and the circumstances leading to the death of a person described as a friend to accused, it can only be said that the incident was most unfortunate. No weapon was used.



This was a slap that caused the deceased to fall and injure his head. There was certainly no intention to cause the death.

20. The two families have chosen to embrace their traditional reconciliation method and confirmed also by the local administration. This Court is satisfied that a custodial sentence is not appropriate. The recommendation for probation sentence is reasonable. The accused should be facilitated to re-integrate into the community through the spirit of reconciliation started between the two families and still ongoing.
21. In conclusion, the accused person is placed on probation for a period of three (3) years.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 25<sup>TH</sup> DAY OF JULY, 2024.**

**PATRICIA GICHOHI**

**JUDGE**

In the presence of:

Mr. Kihara for the State

Ms Morande for Accused person

Joseph Tanui Koskei - Accused

Ruto, Court Assistant

