



**Republic v Kilimo (Criminal Case E051 of 2021)  
[2024] KEHC 8439 (KLR) (10 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 8439 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL CASE E051 OF 2021  
RN NYAKUNDI, J  
JULY 10, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DAVID RUTTO KILIMO ..... ACCUSED**

**SENTENCE**

1. The accused was convicted on his own plea of guilty of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#) he was accordingly convicted on the offence. The brief facts were that the accused on the September 1, 2021 he assaulted the deceased by inflicting multiple injuries to the neck, upper and lower limbs, the back, the right scapula. The postmortem report indicates that the deceased died of heavy bleeding as a result of the injuries sustained to the neck and the back. In the case of [Francis Kariuki Muruatetu V Republic](#) 2017 eKLR the factors to be taken into account in sentencing include:
  - a. Age of the offender
  - b. Being a first offender
  - c. Aggravating factors
  - d. Mitigation factors
  - e. Whether the offender pleaded guilty
  - f. Character and record of the offender
  - g. Commission of the offence in response to gender-based violence
  - 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 e.t.c
2. Although these factors may be conflicting in nature by their very definition and application, it is expected of the trial courts to keep a fine balance and endeavor not to under estimate or emphasize anyone of them. From the plea agreement prepared pursuant to Section 137 (A) –(O) of the [Criminal Procedure Code](#) and the accused evidence in mitigation follows by the submissions on aggravating factors, I sentence the accused to a custodial sentence of 8 years which has also factored the credit period served in pre-trial detention. That period has already been discounted in this final imprisonment sentence the accused is set to serve from today’s decision.

**DATED, SIGNED AND DELIVERED AT ELDORET ON THE 10<sup>TH</sup> DAY OF JULY 2024**

In the Presence of

Mr. Oburu for the Accused

Mr. Mugun for the State

.....

**R. NYAKUNDI**

**JUDGE**

