



**Republic v Metet alias Mang'eny (Criminal Case E003 of 2021)
[2024] KEHC 11014 (KLR) (24 September 2024) (Sentence)**

Neutral citation: [2024] KEHC 11014 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E003 OF 2021
RL KORIR, J
SEPTEMBER 24, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

HEZRON KIPRONO METET ALIAS MANG'ENY ACCUSED

SENTENCE

Judgement And Sentence Upon Plea Agreement.

1. The Accused, Hezron Kiprono Metet alias Mang'eny was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the offence were that on 3rd April 2021 at Boito area of Boito Location in Konoin sub-county within Bomet County, he murdered Ng'eno Robert alias Kiplangat.
2. The Accused took plea on 15th April 2021. The charge and every element thereof was read and explained to him in the Kipsigis language which he understood. He pleaded not guilty to the offence and the court entered a plea of not guilty.
3. Before the trial begun, the Accused Amos Kirui made an offer to plea bargain. The Plea Agreement was drafted and was dated 26th October 2023. It indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 16th November 2023, this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he understood the process of plea negotiation and the court's discretion in sentencing. Further, this court established that the Accused had executed the Plea Agreement voluntarily.



5. On the same day (16th November 2023), the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kipsigis language which he understood and he pleaded guilty. The court entered a plea of guilty for the offence of manslaughter.

6. The facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

“On 3rd April 2021, the Accused person Hezron Kiprono met the deceased Robert Ng’eno alias Kiplangat and a quarrel erupted between them. It was caused by an allegation by the Accused that the deceased had assaulted him that day and on previous occasions.

The Accused went to a nearby hotel and picked a kitchen knife. He followed the deceased on his way home and caught up with him on an earth road within Kapsitat area. A fierce fight arose between them and the Accused stabbed the deceased on the chest killing him on the spot. The Accused then boarded a motorcycle and rushed to Konoin Police Station where he reported to have been assaulted by the deceased. He was however arrested and placed in custody. The police rushed to the scene and removed the deceased body to the mortuary. The cause of death was established to be severe chest injury due to assault. The Accused was therefore charged with murder.

We do accept that the Accused and the deceased had a long running dispute over an undisclosed issue. It is as a result of this that they fought leading to the deceased’s demise. The Accused has admitted having stabbed the deceased.”

7. The Accused accepted the facts as true and the court convicted him on his own guilty plea for the lesser offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#).

The court subsequently directed the filing of a pre-sentence report and scheduled a sentencing hearing.

Pre-Sentence Report

8. The report stated that the Accused regretted his actions and wished to apologize to the deceased’s family. His family stated that he was of good conduct and character and had never had any problem with anyone.

9. The community stated that they did not have any issue with the Accused as he did not pose a threat. That he was well known within the community by virtue of him being a boda boda rider. They however stated that the offence committed was detestable and urged this court to dispense justice.

Victim Impact Statement.

10. The court is required by the Victims Protection Act to take into consideration the views of the victims or the victim impact statement. Section 12 of the [Victim Protection Act](#), 2014 provides that:-

(1) A victim of a criminal offence may make a victim impact statement to the court sentencing the person convicted of the offence, in accordance with section 329C of the [Criminal Procedure Code](#) (Cap. 75) and that statement may be considered by the court in determining the sentence of the offender.

(2) If a victim expresses a wish to make a victim impact statement, a prosecuting agency shall refer the victim to an appropriate victims' services agency for assistance in preparing the victim impact statement.

(3) A victim has a right to present a victim impact statement in all cases where the court is to consider victim protection and welfare.



- (4) The statement referred to under subsection (1) shall include information on the impact of the offence on the victim's life and any concerns the victim may have about their safety.
11. The deceased's family stated that they suffered deep loss and emotional and financial damage. That they could not still comprehend how the Accused killed the deceased. The deceased's wife stated that the deceased was survived by four children and that he assisted her with daily provision and in the farm chores. She wanted the Accused to be dealt with firmly by the law.
12. The deceased's family stated that they had accepted the victim's family bid for forgiveness and reconciliation by receiving a cow. That the reconciliation process was not complete until cleansing rituals are conducted between the two families. They stated that the reconciliation should be independent of this court's verdict.

Mitigation

13. Mitigation by the Accused was made on his behalf by his learned counsel, Mr. Kipngetich. Counsel submitted that the Accused was a young man who was recently married and was blessed with a three year old son. That he had no previous criminal record and that his family depended on him.
14. It was counsel's submission that the deceased's family had already received a cow as a assign of reconciliation and that they had no ill feeling towards the Accused. That the Accused should be granted a non-custodial sentence.
15. Counsel submitted that the Accused was now reformed and was ready to serve the church.

The State's submissions

16. Mr. Njeru, the learned prosecution counsel submitted that the Accused did not kill the deceased because he was drunk. That even though the process of reconciliation was still going on, the deceased's family was still hurting. He further submitted that a young life was lost and he left behind four children who are completely lost without him and whose pain is still fresh.
17. Counsel submitted that even though the Accused saved judicial time, this court should grant him a custodial sentence however lenient.

Analysis

18. Sentencing serves multiple purposes as enumerated in the [Sentencing Policy Guidelines 2023](#) which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.
- ii. Deterrence.
- iii. Rehabilitation.
- iv. Restorative justice.
- v. Community Protection.
- vi. Denunciation.



- vii. Reconciliation.
 - viii. Reintegration.
19. The penal section for the offence of manslaughter is contained in section 205 of the *Penal Code* which provides:-
Any person who commits the felony of manslaughter is liable to imprisonment for life.
20. I have considered the circumstances of the case. The Accused and the deceased had a long standing feud and this feud festered and reared its ugly head on the material day when the Accused fatally stabbed the deceased on his chest.
21. I have also considered the Pre-Sentence Report which stated that the Accused had no previous criminal record and was well known and liked within his community. This court has considered the Accused's mitigation that he was remorseful and regretted his actions. I have also considered the fact that the Accused took full responsibility for his actions and his family had taken steps to undertake traditional reconciliation with the deceased's family by donating a cow. The Probation stated that the deceased's family had accepted the reconciliation gesture but also left the matter to the court to deal with the Accused in accordance with the court's discretion.
22. In the final analysis, having considered the circumstances of the case, the Accused's mitigation, the pre-sentence report and the victim impact statement, it is my finding that the due to the circumstances of this case, the Accused merits the mercy of this court and a lenient custodial sentence. The duty of this court however is to balance the scales of justice. It's duty also is to protect community by giving sentences which discourage crime.
23. In the end, the Accused is sentenced to serve 7 years imprisonment. The sentence is to run from 12th April 2021 being the date of his arraignment and pre-trial custody.

Orders accordingly.

JUDGEMENT DELIVERED, DATED AND SIGNED THIS 24TH DAY OF SEPTEMBER, 2024.

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R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of Mr Njeru for the State, Mr Kipngetich for the Accused and Siele (Court Assistant).

