



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kamau (Criminal Case E002 of 2022)
[2023] KEHC 44 (KLR) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 44 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E002 OF 2022
CM KARIUKI, J
JANUARY 18, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

SIMON MUGO KAMAU ACCUSED

RULING

1. The accused was charged with the offence of Murder contrary to section 203 as read with section 204 of the [Penal Code](#) (cap 63) Laws of Kenya.
2. Particulars being that on the 22nd day of December 2021 at Jumatatu Village in Subukia Sub-County within Nyandarua County, murdered Leah Wambui Nderitu.
3. He pleaded not guilty, and the matter was fixed for hearing. However, the parties negotiated and entered into a plea bargain which culminated in a Plea Agreement executed on 18/11/2022.
4. Subsequently, the charge was substituted to one of manslaughter in which the accused pleaded guilty to.
5. The facts were read as follows;

“On the 22nd day of December 2021 at Jumatatu Village, the accused and the deceased who were lovers and living together went to drink alcohol at a bar known as Silver at 7.30 pm. After a short while, the deceased left the bar leaving the accused behind. After a short while, the accused also left the bar and headed home while heading home the deceased caught up with her and both headed home and, on their way, the accused informed the deceased that he had asked her to carry her things and leave and that she will not sleep in his home that night. The deceased had alcohol and bhang with her.



While at home, a fight ensued which prompted the deceased to pick a piece of timber which she aimed at the accused but he ducked and took it from her and used it to hit her on the head and she fell and started bleeding. The accused then picked her up and took her inside the house on the bed after having tied her to the head to stop bleeding. When the accused woke up in the morning, he found her on the floor. On touching her, he found she was dead.

He then escaped to Nairobi and finally Murang'a where he was arrested from. A postmortem was conducted on the body of the deceased and the cause of death was found to be severe head injury secondary to head trauma following blunt force injury to the head.

He was later charged with the offence of Murder which has now been reduced to Manslaughter to which he has pleaded guilty”

6. The accused admitted the fact and he was convicted of the offence of manslaughter.
7. The Prosecution informed the court that he is a first offender.
8. The Defence via Counsel mitigated that he has been in custody since 27/12/2021. The incident leading to death arose from a fight between the accused and the victim. That he is married to a wife who was the victim and thus a nursery child is left with no parents.
9. He is repentant and remorseful thus he seeks leniency and a non-custodial sentence.
10. The Probation report has not been filed since November thus court dispensed with the same. Thus, the court in making a Sentence considers the facts, the law, the circumstance of the case plus the sentencing policy. Sentences are imposed to meet the following objectives:
 1. Retribution: To punish the offender for his/her criminal conduct in a just manner.
 2. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 3. Rehabilitation: To enable the offender to reform from his criminal disposition and become a law-abiding person.
 4. Restorative justice: To address the needs arising from criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims' communities', and offenders' needs, and justice demand that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.
 5. Community protection: To protect the community by incapacitating the offender.
 6. Denunciation: To communicate the community's condemnation of criminal conduct.
11. 4.2 These objectives are not mutually exclusive, although there are instances in which they may conflict with each other. As much as possible, sentences imposed should be geared towards meeting the above objectives in totality
12. Thus, the court taking account the above fact and taking account that the accused offender saved court time by admitting the offence, courts makes the orders as follows;



- i. The accused will serve three years from the date of December 27, 2021, thus court taking to account the period he has been in custody.

Dated, Signed, and **Delivered** at NYAHURURU this 18th day of January 2023.

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CHARLES KARIUKI

JUDGE

HC CRIMINAL CASE NO. e002 OF 2022 RULING ON SENTENCing	0
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