



Republic v Jaoko (Criminal Case 14 of 2020) [2023] KEHC 23 (KLR) (9 January 2023) (Sentence)

Neutral citation: [2023] KEHC 23 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 14 OF 2020
EM MURIITHI, J
JANUARY 9, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

BRIAN ONYANGO JAOKO ACCUSED

SENTENCE

1. The accused has been convicted for Manslaughter under section 202 as read with 205 of the [Penal Code](#) following a plea bargain that reduced the initial charge of Murder to Manslaughter.
2. The accused’s counsel mitigated pointing to the circumstance of the offence which counsel said was “Highly provoking and in the plea agreement it is shown accused acting in self-defense.” It was also urged that the accused had cooperated with the prosecution in the matter and pleaded guilty to Manslaughter at earliest opportunity. The health of the accused, a person living with Aids, as well as his academic and other achievements while in prison were cited in seeking a non-custodial sentence.
3. The DPP while observing that the accused is a first offender urged to court to consider the Probation Officer’s Pre-sentence Report and the victim impact statement therein.
4. The Probation Officer’s Report recommended a custodial sentence and the views of the victim’s family called for a sentence commensurate to the offence committed pointing out the impact of the offence that “the victim had a son from a previous marriage whom she was taking care of before they met with the offender and now the burden was left to Victim’s mother who has no stable source of income.”
5. The court has considered that the fatal assault was as result of a domestic quarrel over some money which the accused had lost leading to a scuffle described at paragraph 11 of the facts of the offence set out in the Plea Agreement as follows: -

“The deceased attacked the accused on his left abdomen hitting him with her hand. Additionally, the deceased got hold of the accused person’s neck and tried to strangle him.



The accused person then removed a pen knife attached to a bunch of keys in his possession and stabbed the deceased several times on the right side of her abdomen. The deceased shouted in Kiswahili “*unaniua.*” The accused person then pushed the deceased and she fell near the gate”

6. In meeting the bare hands attack by the deceased with knife attack “stabbing her several times on her right side of the abdomen” the accused used excessive force. A deterrent sentence is necessary to deter such domestic violence. The academic and other certificates while in prison points to accused capability of rehabilitation and reform through prison discipline and activity. His health status will be factored in his appropriate sentence considering that the prison system does have medical facility to deal with such health challenges of the inmates.
7. The court considers that a custodial sentence is necessary. A jail term of 7 years shall enable the reform of the 25 year old accused and early release at an age when he will make meaningful contribution to development of the nation, his circumstances and his society.

Orders

8. Accordingly, having convicted the accused on his own plea of guilty for the offence of Manslaughter contrary to Section 202 as read with 205 of the *Penal Code* the court now sentences the accused to imprisonment for a period of seven (7) years.
9. In terms of section 333(2) of the *Criminal Procedure Code*, the sentence of 7 years shall commence on February 25, 2020 when the accused was first remanded to await his trial.
- 10 Order accordingly.

DATED AND DELIVERED ON 9TH JANUARY, 2023.

EDWARD M. MURIITHI

JUDGE

Appearances

Mr. Masila Principal Prosecution Counsel for DPP

Mr. Karatu Advocate for the Accused.

