



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Kipsoi (Criminal Case E045 of 2021)  
[2023] KEHC 894 (KLR) (10 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 894 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE E045 OF 2021  
AN ONGERI, J  
FEBRUARY 10, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**BRIAN KIBET KIPSOI ..... ACCUSED**

**SENTENCE**

1. The accused person in this case, BKK(a minor) was charged with Murder Contrary to section 203 as read with section 204 of the [Penal Code](#).
2. The charge was reduced to one of manslaughter Contrary to section 202 as read with section 205 of the [Penal Code](#). The accused person was convicted on his own plea of guilty following a plea bargain agreement signed on 6/9/2022.
3. The particulars of the charge were that on 13/6/2021 at Barotion Village, the accused person unlawfully killed Wilson Kipsoi.
4. The facts were as follows:-

On the 12<sup>th</sup> day of June, 2021 the accused came home and found his father in the Kitchen cooking appearing drunk. The deceased was insulting his other son, the accused intervened in an attempt to calm the situation down. The deceased was so much annoyed and threatened to beat both of them. On seeing his father with so much anger, the accused ran and sought refuge at a neighbour's house.

The deceased then went to the accused's room and removed his belongings threw them outside in readiness to burn them. Ryan Kipchirchir, the younger brother to the accused ran to the neighbour's house and told his brother what was happening at home. The accused and the neighbor rushed to see what was happening and found the deceased preparing to



burn the Accused's belongings. The neighbor talked to the deceased and as they were talking, the accused got a chance to save his belongings then went back to the neighbour's house where he spent the night.

The following morning, the accused went back home to see if his father had cooled down. On seeing the Accused approaching home, the deceased armed himself with a bow and arrows, and as the Accused drew near, the Deceased aimed at him and shot at the Accused but missed. This prompted the Accused to arm himself with a club. As the Deceased was aiming at him the second time, the string of the bow broke and this is the point at which the Accused got a chance and he went and hit the Deceased on the head.

The Deceased felled down bleeding profusely. He then went back to the neighbour's house and informed her what he had done and neighbours then rushed to the scene and raised an alarm alerting other neighbours. They then organized for transportation and rushed the deceased to Londiani Hospital where he died while undergoing treatment.

The accused then went to the house of his grandmother who advised him to surrender to the police.

The grandmother then escorted the accused to Londiani Police Station where he was arrested and placed in the cell.

On 18<sup>th</sup> day of June, 2021, a postmortem was conducted on the body of the Deceased at St. Joseph's Hospital- Molo and the doctor formed the opinion the cause of death was as a result of severe head injury secondary to blunt trauma.

After completion of investigations, the accused who had been taken to Londiani DCI Office was charged with the offence of Murder Contrary to section 203 as read with section 204 of the *Penal Code*, which has now been reduced to Manslaughter Contrary to section 202 as read with section 205 of the *Penal Code* pursuant to this agreement.

5. The Defence Counsel in his mitigation said that the accused person is a young man aged 15 years who was a student at [Particulars Withheld] Day School prior to the incident.
6. It was further submitted that the deceased who was the Accused Person's father had kicked the Accused Person's mother out of the matrimonial home and also kicked out the Accused Person.
7. The Defence Counsel also said that the Accused Person is remorseful and repentant and further that he pleads for leniency.
8. The Probation Officer filed a pre-sentence Report dated 28/10/2022 detailing the social background of the Accused Person.
9. The Report states that the Accused Person was a student at [Particulars Withheld] Secondary School in Form Three at the time of arrest. He is a first born in a family of Four Children. His mother and father (the Deceased) were separated. The deceased used to abuse alcohol and chase the family from the matrimonial home.
10. The offence of manslaughter is a serious one that calls for life imprisonment.
11. This Court has considered the mitigating circumstances of this case, especially the fact that the Accused is remorseful for the offence he committed.
12. The Accused Person also pleaded guilty and saved the Court's time.
13. The Accused Person is a minor aged 17 years. He has been in custody since he was arrested.



14. He is considered suitable for a non-custodial sentence. I accordingly place him on Probation for a period of 3 years on condition that he complies with the requirements of the probation officer.
15. During that period, the County Probation Officer will organize for Counselling Sessions.  
Right of Appeal against sentence – 14 days (Explained).

**DELIVERED, DATED AND SIGNED AT KERICHO THIS 10<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**A. N. ONGERI**

**JUDGE**

