



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Republic v Njau (Criminal Case 17 of 2019)
[2023] KEHC 699 (KLR) (9 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 699 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 17 OF 2019
MM KASANGO, J
FEBRUARY 9, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

PERIS MUTHONI NJAU ACCUSED

SENTENCE

1. Peris Muthoni Njau, by the information dated March 22, 2019 was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. She pleaded not guilty. The prosecution adduced evidence through three witnesses. Thereafter the parties agreed to substitute the charge against Peris to manslaughter contrary to section 202 of the *Penal Code*. A plea bargain agreement pursuant to section 137A-O dated October 31, 2022 was presented and accepted by the court.
2. Following that plea bargain agreement on December 1, 2022 Peris pleaded guilty to the offence of manslaughter. On Peris confirming that the factual basis of the offence, as narrated by prosecution, she was convicted of the said offence.
3. The factual basis of the offence of manslaughter is that the deceased on March 3, 2019 was in the company of Peris and one other lady. They were drinking alcohol at a pub known as Gateway pub. They drank up to the early hours of the following day. On Peris leaving that pub and going to her boyfriend's house, the place she intended to sleep, the deceased followed her. when Peris arrived at her boyfriend's house, the door was opened by her boyfriend. Peris stood at the door and an argument arose between her boyfriend and the deceased. In the meanwhile, Peris took hold of a kitchen knife which was in a designated cooking area and stabbed the deceased once in the chest before fleeing the scene. The deceased was taken to Gatundu level 5 hospital but was pronounced dead on arrival.



4. The postmortem reveals that the deceased died due to a chest injury and cardiogenic shock due to a single penetrating sharp force trauma to the chest (stab to the heart).
5. I have considered the mitigations made by the learned counsel Mr Marube on behalf of Peris. Peris is now 32 years old having been born in 1995. She committed the offence that she has been convicted of in 2019 when she was 29 years old. She is a single mother of a 10-year-old girl.
6. Peris has been remanded in custody while awaiting the conclusion of this case since March, 2019 which makes it a few days shy of 4 years. I note that during the period of her remand in custody she undertook various courses titled, 'The Prisoner's Journey', Bible correspondence course and prison project Philip, amongst others.
7. Peris has no prior conviction. Her learned counsel submitted that she is remorseful of the offence. Further, that she often wished she had not been at that pub on that particular day. It is also noteworthy that she has reconciled with the deceased's family.
8. From what I perceive from the facts relied by the court and the plea to a lesser offence by Peris, it is clear she did not foresee her reckless response to the deceased following her would lead to the deceased's death. I am cognisant of the fact that sentence must be proportionate to the gravity of the offence and of the degree of responsibility. As long as it may be, it is a misunderstanding to think that a sentence can be equal to the enormity of the loss of life. That of course is impossible.

Disposition

9. I have assessed the nature and circumstances of the and the circumstances of Peris. Peris has been in custody since the day of her arrest, that is almost 4 years. In my view, the appropriate sentence bearing the above in mind is a suspended sentence.

Conclusion

10. This court hereby sentences Peris Muthoni Njau to one years suspended sentence for manslaughter of Joseph Mwangi Muranchia (deceased). I therefore order Peris Muthoni Njau to be set free from custody unless otherwise lawfully held.

RULING DATED AND DELIVERED AT KIAMBU THIS 9TH DAY OF FEBRUARY, 2023.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice/Julia

For DPP : -

Accused: Peris Muthoni Njau:- Present

Instructed by Marube & Co. Advocates for accused:- Mr Murube

Instructed by DPP:- Mr Gacharia

RULING delivered virtually.

MARY KASANGO

JUDGE

