



REPUBLIC OF KENYA



**Republic v Too (Criminal Case E057 of 2021)
[2023] KEHC 17697 (KLR) (18 May 2023) (Sentence)**

Neutral citation: [2023] KEHC 17697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E057 OF 2021**

JK SERGON, J

MAY 18, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

ROBERT KIPKOECH TOO ALIAS ART RESPONDENT

SENTENCE

1. Robert Kipkoech Too alias Art, the Accused Person herein was arraigned before this Court to face a charge of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*.
2. Pursuant to the Plea Agreement executed by the Accused and the Prosecution dated October 4, 2022, the Accused instead pleaded guilty to the lesser charge of Manslaughter Contrary to Section 202 as read with Section 205 of the *Penal Code*.
3. The particulars of the offence are that on September 1, 2021, at Soliat/Soin Sigowet in Belgut sub-County within Kericho County, the Accused unlawfully killed Ive Chepngetich.
4. Upon convicting the Accused, this Court called for a Probation Pre-sentence Report and also invited the Accused Person to submit facts in mitigation to enable this Court determine the appropriate sentence.
5. Miss Kirui, Learned Advocate for the Accused informed this court that the Accused was a first offender.
6. Mr Musyoki, Learned Senior Assistant Director of Public Prosecutions urged this court to treat the Accused as a first offender since he did not possess the Accused's past Criminal Record.
7. Miss Kirui further stated that the Accused is remorseful and regrets committing the offence under extreme provocation. The Learned Advocate further stated that the Accused has undergone the Traditional Kipsigis Reconciliation and Cleansing process and that the community is ready to receive the Accused back to community. This Court was beseeched to be lenient to the Accused.



8. I have also taken into account the Pre-sentence Probation Report prepared by the Kericho County Probation Officer. In the Pre-sentence Report, it is indicated that the Accused has a good relationship with other community members. The Report also indicates that the Accused committed the offence under the influence of alcohol. Members of the Accused family too are sorry for what transpired during the incident and that they have sought for forgiveness from the Deceased's family.
9. In the Report, it is further indicated that the two families have commenced the process touching on compensation and the Kipsigis Traditional Cleansing Rituals. The Local Administration have stated in the Report that despite the Accused taking alcohol, he has no past Criminal Record.
10. It is also noted that both the Accused and Deceased abused alcohol. The Local Administration expressly stated that the community members are not bitter and therefore there is no fear of revenge attacks.
11. The Probation Officer further noted that the village elder confirmed that he represented the Area Chief when the affected families were performing the Traditional Cleansing and Reconciliation Ceremonies. The Deceased's mother stated that she is unwilling to accept the Accused back to the community because there is no justification as to why he committed the unlawful act.
12. In view of the fact that the Deceased's mother is still bitter, the Probation Officer recommended that the Accused be committed to a custodial sentence.
13. Having considered the facts in mitigation and the Probation Pre-sentence Report and the fact that the Accused has been in custody since the month of October, 2021, approximately 18 months ago. It must also be noted that as a result of the Accused's action, life was lost in the process. In the circumstances of this case, I am of the view that the appropriate sentence should be a short custodial sentence.
14. I hereby sentence the Accused to serve 4 years imprisonment.

Dated, Signed and Delivered this 18th day of May, 2023.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor - Mr. Musyoki

No Appearance for Miss Kirui for the Accused

Accused present in person

CRIMINAL CASE NO.E057 OF 2021 Page 2

