



**Republic v Ukwesi (Criminal Case E020 of 2020)
[2023] KEHC 18258 (KLR) (12 May 2023) (Sentence)**

Neutral citation: [2023] KEHC 18258 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E020 OF 2020
PJO OTIENO, J
MAY 12, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER LIYALI UKWESI ACCUSED

SENTENCE

1. The accused, Peter Luyali Ukwesi, was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars of the offence were that on the 23rd day of April, 2020 at Shikumu Village in Isulu Location of Kakamega South Sub County, the accused person murdered Jeredina Khabere Liyali.
2. The charge of murder was thereafter reduced to manslaughter following a plea agreement between the accused and the prosecution. The charge of manslaughter was read to the accused person to which he pleaded guilty. A plea agreement dated and filed on November 24, 2022 in that regard was approved and adopted by the court.
3. The circumstances giving rise to this suit is that on the 23rd day of April, 2020, the accused person suspected that his 13-year-old daughter, the deceased, had stolen a sum of Kenya Shillings Three Hundred from him and in punishing her he beat her, which beatings led to her death according to an autopsy report dated April 27, 2020.
4. It was the mitigation of the accused through his counsel, Mr. Otsieno, that he was a first time offender and that he was willing to relocate to another area other than his home following the hostility he faces at home if granted a non-custodial sentence. The prosecution on the other hand urged that the accused be sentenced to ten years' imprisonment due to the life of a young girl he had cut short.
5. At the request of the court, a pre-sentence report was availed by Grace Agevi, a probation officer, which indicates that the family of the deceased was still coming to terms with the death of the deceased and



they were unwilling to accept the accused back into the family. The assistant chief also noted that the accused person was known to be stubborn and the community considered him an outcast and was not willing to welcome him because of the offence.

6. Though the accused person did not premeditate killing his daughter and having entered a plea bargain, thus saving courts time, there is a conviction pursuant to a plea of guilt and the court has a duty to impose a proportionate penalty to the offence while giving due consideration to the objects of sentencing in criminal justice system.
7. Every person convicted of an offence deserves a punishment as a sign of disapproval of the criminal conduct. Loss of life, even within the family, is a grave matter even when done devoid of malice aforethought. Though the accused person has pleaded for a non-custodial sentence, the court discerns custodial sentence as the appropriate one due to a father who was unable to control his anger leading to the loss of a young human life. He needs to be kept away from the society during which time he can rethink his past ways, learn hunger management and, maybe, a livelihood skill provided in correctional facilities.
8. From the foregoing, the accused is hereby sentenced to serve to 5 years' imprisonment computed from the April 23, 2020 being the date of his arrest.
9. For being reputed for anti-social conduct in the community, upon completion of the jail term, and prior to being released, he shall execute a cognizance pursuant to section 33, *Penal Code*, in the sum of Kshs 100,000, so that he keeps peace and be of good conduct for a period of two years thereafter.

DATED, DELIVERED AND SIGNED AT KAKAMEGA THIS 12TH DAY OF MAY 2023.

PATRICK J. O. OTIENO

JUDGE

In the presence of:

Ms. Chala for the Prosecution/State

Otsyeno for the Accused

Court Assistant: Polycap

