



REPUBLIC OF KENYA



**Republic v Onyango (Criminal Case E010 of 2021)
[2023] KEHC 17257 (KLR) (10 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17257 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E010 OF 2021
RE ABURILI, J
MAY 10, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

QUINTER AKINYI ONYANGO ACCUSED

JUDGMENT

1. The accused person herein Quinter Akinyi Onyango was initially charged with the Information for murder of her own baby, SA contrary to section 203 as read with section 204 of the *Penal Code*. After a while, the accused person plea bargained for a lesser charge of manslaughter. The plea bargaining agreement was executed between the accused and the prosecution leading to substitution of the charge of murder with that of manslaughter. The fresh charge for manslaughter and all its elements were read out and explained to the accused person in Kiswahili language. She admitted the charge and after facts were read out to court by the prosecution counsel, she also admitted the facts to be the truth. The court having entered a plea of guilty against her convicted her accordingly. The accused person was then given the opportunity to mitigate in person and through her advocate Ms Lukasile.
2. The facts giving rise to this case as read out to court by the Senior Principal Prosecution Counsel Mr Okoth are that On the February 15, 2021 at about 0830 hours at Lisana Sublocation, Nyakach Sub County, one Enock Okwach Olang, the husband to the accused herein Quinter Akinyi Onyango left the deceased child SA in the company of the accused, taking porridge at the doorsteps of Enock's Mother's house. When Enock returned home on February 16, 2021, he never found the accused and the deceased. The neighbour Naleah Nyanoko Owiti spotted the deceased's body at the toilet then on examining it, she noticed and recognized it as that of the deceased child. She screamed and neighbours and the Chief came and advised Enock not to touch the body of the deceased until police arrived.
3. Naleah saw physical injuries on the head, eyes and stomach of the child was swollen. The body was removed to Nyakach Sub County Morgue where postmortem was conducted on March 9, 2021 and



the cause of death was found to be increased intracranial pressure due to massive subdural hematoma from blunt head trauma; physical abuse; compounded by a hemorrhagic shock.

4. Investigations were carried out by DCI Nyakach and the file was forwarded to ODPP Kisumu and the accused was arrested and arraigned for murder which has been plea bargained and reduced to manslaughter. The original of postmortem Report was produced as P Exhibit 1.
5. The accused person was mentally examined and found to be fit to stand trial. This was on April 20, 2021. The mental assessment report was filed in court on April 21, 2021. The accused was the last person seen with the deceased child, SA who was about 2 years and a half old.

Sentence

6. The accused person is a 30-year-old mother of three (3) children, one of whom is the victim in this case. She has been convicted of the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code, on her own plea of guilty following her voluntary signing of a Plea Bargaining Agreement with the State.
7. The offence took place on February 16, 2021 and she has been in custody ever since as she could not raise bond terms given by this court. She mitigates as a first offender, is remorseful and sole breadwinner of her children who are now with her elderly mother as her first marriage disintegrated and it was her attempt at the failed second failed marriage that was troubled that she unlawfully killed her two (2^{1/2}) year old child. She mitigated that her new husband had neglected them, was not providing them with enough food and that the child was crying when she took a stick and hit her to make her stop crying when suddenly the child fell down and died.
8. From the post-mortem report produced in court as P Exhibit 1, the child was malnourished and underwent physical abuse. No mother in her sane mind would kill their own child. This is so because ideally, parents are responsible for nurturing their children with love and care to help them develop a healthy view of themselves and the world around them. However, life is not always ideal.¹
9. The accused was not justified in unlawfully killing her child, as every life is sacrosanct. Nonetheless, from the mitigation and pre-bail assessment report filed on April 27, 2022, the accused suffered traumatic moments in her two failed marriages and that could have contributed to her anger misdirected at her only girl child. Unfortunately, the society generally and forever blames women for their failed marriages and the accused did not have the benefit of counselling services to aid her settle and fend for her own children. She became a toxic parent who victimised her child with physical abuse as was seen from the old scars found on the body during post-mortem.
10. Isaac Maweu, a counselling psychologist has this to say about toxic parents:

' A toxic parent is someone who has challenges such as marital misunderstandings, childhood traumas and they transfer t to their children, a phenomenon in psychology called 'projection and displacement.' 'Many times, this toxicity is unconscious and apparent may not be aware of the big impact their attitude and hatred carries. Depression and stress would be another factor that triggers such behaviour which leads to negative emotional contagion which is spreading damaging emotions to the people around.'

'A parent would be battling a disorder like bipolar or any other mental issues and therefore would end up without knowledge distressing their children's lives. A reject child can also

¹ Article by Thomas Bwire DN Wednesday, May, 2023 page 4 on Parenting-Cover story.



make a parent develop detrimental thoughts due to the background on how the child was conceived.'

'Whatever one undergoes in the hands of a primary caregiver such as a house-help or a parent in the 0-18 years bracket mind end shaping their adult life. It is advisable if one had an abusive and manipulative parent, they should seek psychological help to avoid ending up having failed relationships. When dealing with relationships, it is key to note that you offer what you have. You cannot show love to a partner or child if, when growing up, nobody showed you love.' When one has a pent-up emotions and pain, they will without a doubt vent it out causing emotional, psychological or physical harm.'²

11. In my view, the scenario described by the psychologist clearly mirrors the circumstances under which the innocent baby was hacked to death by her mother who had a failed marriage and was undergoing trauma in a second marriage to a man who was not the father of the baby victim and was not providing for them such that she was even living in her mother in law's house as opposed to living in the house of the man who had allegedly married her. This shows how desperate the accused person was to have a marriage that was not working. I have said not once that if a marriage is not working, that is not and should not be the end of life for any man or woman. It should never cost a life to save a marriage. people should learn to heal and live. The accused person did transfer her anger of being rejected to her innocent child because she had no coping mechanism in the midst of the turmoil that comes with being a toxic parent. She had no way of seeking professional help to break the toxic cycle.
12. According to the Journal of Experimental psychopathology,³

' Dysfunctional parenting has been shown to be related to a variety of forms of psychopathology. Schema Theory proposes that when children's core developmental needs are unmet ('toxic parenting'), maladaptive views of self and others (Early Maladaptive Schemas; EMS) develop. These EMS represent a cognitive vulnerability to future psychopathology. Research has shown that several EMS mediated the relationship between recollections of parenting and depressive symptoms.'
13. Having considered the mitigations and circumstances under which the offence was committed and age of the accused. I have also considered the fact that the accused has parental responsibilities to her 2 surviving children hence keeping her in prison for long will not aid in the upbringing and provision for her said children who are of tender years.
14. She has plea bargained for lesser punishment. She has also save the court and the public time and expense of bringing witnesses to court to prove her guilt beyond reasonable doubt, although this could have been done a while ago, this being a 2021 case. Punishment for manslaughter upon conviction is up to life imprisonment. The accused pleaded for leniency and a maximum of three (3) years in prison while the prosecution proposed five (5) years imprisonment. Sentencing is in the discretion of the trial court.
15. Taking into account all the above circumstances and period spent in custody, I hereby exercise discretion and sentence the accused person herein Quinter Akinyi Onyango to serve probation for a

² DN Wednesday, May 10, 2023 DN2 page 5: "Why would a mother hate her own child"

³ Dysfunctional Parenting and Depression: The Mediatonal Role of Schemas
Michael R. Lewin mlewin@csusb.edu, Laura M. Garcia, [...], and Alexander Ojeda



period of three (3) years to be supervised by the Probation Officer, Siaya County, Gem Sub-county and to enable her go and receive medical attention and the monthly reports filed into this court.

16. This file is now closed.

17. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 10TH DAY OF MAY, 2023

R. E. ABURILI

JUDGE

