



**Republic v Karakacha (Criminal Case 24 of 2020)
[2023] KEHC 18737 (KLR) (21 June 2023) (Sentence)**

Neutral citation: [2023] KEHC 18737 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
CRIMINAL CASE 24 OF 2020**

**AC MRIMA, J
JUNE 21, 2023**

BETWEEN

REPUBLIC STATE

AND

KELVIN KARAKACHA ACCUSED

SENTENCE

1. The accused was charged with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. He pleaded not guilty and the parties engaged into a plea agreement which was ultimately accepted by the Court. The accused was, therefore, convicted on the offence of manslaughter.
2. The Court received mitigations and called for a Pre-Sentence Report for purposes of sentencing.
3. This Court is well abreast of the principles on sentencing and the 2016 Judiciary of Kenya Sentencing Policy Guidelines. As stated by the Supreme Court of Kenya in Francis Karioko Muruatetu & another v Republic [2017] eKLR, despite their importance, the guidelines do not replace judicial discretion. This is what the Apex Court stated: -

(72) We wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process.

4. The purpose of sentencing is expounded in page 15, paragraph 4.1 of the Sentencing Policy Guidelines as follows: -

Sentences are imposed to meet the following objectives:

1. Retribution: To punish the offender for his/her criminal conduct in a just manner.



2. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 3. Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person.
 4. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.
 5. Community protection: To protect the community by incapacitating the offender.
 6. Denunciation: To communicate the community's condemnation of the criminal conduct.
5. In sentencing, the Court considers various mitigating factors. Some include: -
- (a) age of the offender;
 - (b) being a first offender;
 - (c) whether the offender pleaded guilty;
 - (d) character and record of the offender;
 - (e) commission of the offence in response to gender-based violence;
 - (f) remorsefulness of the offender;
 - (g) the possibility of reform and social re-adaptation of the offender;
 - (h) any other factor that the Court considers relevant.
6. In this case, the Accused is aged 26 years old. When he committed the offence, he was 22 years old. He has a history of anger management challenges. His detailed background has been captured in the Pre-Sentence Report. His attitude to the offence as well as the views of the victim's family and the local community administrators are on record.
7. It is also the position that it was a single stab by a sharp object that caused the fatal injury. Further, the rest of the circumstances under which the offence was committed are in the plea agreement.
8. By considering the totality of the above coupled with the need to strike a balance between the victim's family and the fact that the accused is a young man, this Court finds nevertheless that the accused ought to be reformed in custody. This is, therefore, not a case deserving of a non-custodial sentence.
9. Consequently, the following sentence is hereby rendered: -
- a. The accused is hereby sentenced to serve 12 years' imprisonment.
 - b. The sentence shall run as from 16th September, 2020 when he was charged before this Court.
 - c. File marked as closed.
10. Orders accordingly.

DELIVERED, DATED and SIGNED at KITALE this 21st day of June, 2023.

A. C. MRIMA



JUDGE

Sentence delivered in open Court in the presence of:

Miss. Munialo, Learned Counsel for the Accused.

Miss. Kiptoo, Learned Prosecutor instructed by the Director of Public Prosecutions for the State.

Regina/Chemutai – Court Assistants.

