



**Republic v Byegon (Criminal Case E064 of 2021)
[2023] KEHC 20831 (KLR) (20 July 2023) (Sentence)**

Neutral citation: [2023] KEHC 20831 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E064 OF 2021**

JK SERGON, J

JULY 20, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEAH KIPRONO BYEGON ACCUSED

SENTENCE

1. Joseah Kiprono Byegon, the Accused herein, pursuant to a plea agreement was charged and convicted with the offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) Cap 63 Laws of Kenya. The particulars of the offence are that on November 7, 2021 at Kapkigoro Village, Simbi Sub-Location, in Soin/Sigowet Sub-County within Kericho County, the Accused unlawfully killed Edward Kiplangat Rono.
2. Upon convicting the accused for the aforesaid offence, this court directed the county Probation Officer to file a pre-sentence Report and also invited the Accused to make submissions in mitigation to guide the Court in determining the appropriate sentence to be meted out.
3. Mr Kiletyen Learned Counsel for the Accused, submitted that the Accused is remorseful for commission of the offence and that he is a first offender. He further submitted that the accused has two families where he is the sole breadwinner and that the accused had acted under provocation. He therefore urged the court to exercise leniency and to grant a non- custodial sentence.
4. Mr Musyoki Learned Assistant Director of Public Prosecutions asked this court to consider the fact that the accused had used excessive force and in the process the life of his son was lost.
5. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer dated June 27, 2023. In the aforesaid report it is noted that the accused has two families and that he enjoys quality relationships with his two families,



he practices small scale farming and makes enough money to support his children attain education and daily necessities

6. The accused is the paternal father of the deceased, on the day when he committed the offence, the deceased attacked him and nearly strangled him to death, they fought ferociously and the deceased sustained injuries which lead to his death. The accused person reported the matter to the local authority and was charged with the offence before this court.
7. The family of the offender stated that the deceased had taken a wrong trajectory in life, he had become violent towards his father the accused herein and refused to relent on violence towards his father despite intervention by the family, clan and the local administration. The deceased had failed to heed to advice and counsel on how to exercise respect on how he related with his father. The family had already conducted the cleansing rituals as per tradition.
8. The local administrator stated that the accused was a responsible and respectable individual, he was very helpful to the community and could be linked to a number of successful social matters solved amicably and further that the community did not harbor any grudges against the accused, the community posed no danger to the accused who was out on bond, the community was ready to receive him back and had freely supported the accused in conducting the cleansing process, the local administration and community members proposed community supervision. The accused has a fixed abode.
9. The offender's family, clan, community members and the local administrator were in favour of a non-custodial sentence and therefore beseeched the court to exercise leniency furthermore the family conducted the necessary cleansing rituals as per tradition to reconcile the family and clan members. The county probation officer therefore recommended a non-custodial sentence subject to the court's discretion.
10. I have taken cognizance of the fact that the accused entered into a plea bargaining agreement and therefore saved the court's time for trial.
11. Having considered the circumstances of the offence, submissions in mitigation and having further considered the pre-sentence report, it is apparent that in the circumstances of this case that a non-custodial sentence is appropriate.
12. Consequently, I hereby sentence the Accused namely: Joseah Kiprono Byegon to serve 8 years imprisonment.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF JULY, 2023

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor – Mr Musyoki

Mr Kiletyen for the Accused

Accused – Present in Person

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