



**Republic v Kobeli (Criminal Case 10 of 2020)
[2023] KEHC 21255 (KLR) (20 July 2023) (Sentence)**

Neutral citation: [2023] KEHC 21255 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 10 OF 2020**

**JK SERGON, J
JULY 20, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

VICTOR KIPROTICH KOBELI ACCUSED

SENTENCE

1. Victor Kiprotich Kobeli 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 May 17, 2020 at Tabaita Location, in Soin/Sigowet Sub-County within Kericho County, the Accused unlawfully killed Bernard Cheruiyot Koskei.
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 Nyadimo Learned Counsel for the Accused, submitted that the Accused is remorseful for commission of the offence and that he committed the offence under the influence of alcohol. He further submitted that the accused is a first offender and has been in custody since 2020 for 3 ½ years. He therefore urged the court to exercise leniency.
4. Mr Musyoki Learned Assistant Director of Public Prosecutions pointed out that from the facts of this case the accused had evil intentions, he had previously warned the deceased and way laid the deceased and cut him with a panga which is a lethal weapon, the accused aimed at the deceased's head. He further submitted that the accused was seen assaulting the deceased using a panga before disappearing to an unknown place and further that he had not reconciled with the deceased's family. Finally he submitted that a custodial sentence was an appropriate sentence in the circumstances.



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 6, 2023. In the aforesaid report it is noted that the accused is from a dysfunctional family, he dropped out of primary school due to lack of school fees and poor parental responsibility. He consumes alcohol irresponsibly. He is a first offender though he is a notorious juvenile with antisocial tendencies such as fighting and quarreling with whoever he differs with in terms of opinion.
6. The family of the offender regretted the circumstances under which the offender cut short the life of the deceased. They admitted that the offender is problematic especially when he is drunk, however they pleaded that the offender be considered for a non-custodial sentence to enhance cleansing rituals and reconciliation.
7. The family of the deceased was bitter towards the offender and further over the fact that over the last two years nothing meaningful has been done to foster reconciliation.
8. The local administrator cited drunkenness as the major cause of the accused's anti-social behavior and that he was a difficult person as far as behavior change is concerned. The village and the local administration were of the view that a non-custodial sentence may not be appropriate unless and until reconciliation is done.
9. The county probation officer faulted the offender for not being straightforward and honest about the circumstances of the offense, he informed the probation officer that he was attacked by the deceased and therefore acted in self defense. However, the truth was that he was the one who came out of his house well armed to counter the deceased who was talking with his girlfriend. The county probation officer therefore recommended a 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. I have considered that the accused has been in custody for a period of 3 years, 2 months since his arrest on May 20, 2020.
12. 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 custodial sentence is appropriate.
13. Consequently, I hereby sentence the Accused namely: Victor Kiprotich Kobeli to serve 8 years imprisonment

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

.....

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor – Mr. Musyoki

Accused – Present in Person

Nyadimo for Accused

