



**Republic v Jacktone (Criminal Case E023 of 2022)  
[2023] KEHC 22303 (KLR) (21 September 2023) (Sentence)**

Neutral citation: [2023] KEHC 22303 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL CASE E023 OF 2022  
WA OKWANY, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**THE REPUBLIC ..... PROSECUTOR**

**AND**

**YUVINALIS MAGETO JACKTONE ..... ACCUSED**

**SENTENCE**

1. The accused herein, Yuvinalis Mageto Jacktone, was initially charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. He pleaded not guilty. Through a plea bargain agreement signed on March 10, 2023, the accused agreed to plead guilty to a lesser charge of manslaughter. The particulars of the offence were that on October 30, 2022 at Getta village, Nyabiosi sub location, Muchenwa location in Masaba North sub county within Nyamira county, unlawfully killed Philip Kebaya Kennedy. The accused was therefore convicted for the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code.
2. The prosecution indicated that they have no previous criminal record on the accused person hence the accused can be treated as a first offender.
3. In mitigation, Mr Gichaba advocate for the accused person submitted that the accused is remorseful. He is a first offender. He prays for mercy and leniency of the court. He has just finished his secondary school education, is undergoing counselling sessions and is willing to live peacefully with his neighbors. He noted that the offender pleaded guilty to a lesser charge of manslaughter thus saving this court the time and resources that it would have spent in a full trial. He prays for a lenient non-custodial sentence to enable him pursue his further studies.
4. The Nyamira County Probation Officer, Mr Kennedy Okemwa, filed a presentence report on May 2, 2023 which reveals that the accused is a 17 year old form four school leaver. He is a second born among



- 6 siblings. His mother is paralyzed while his father is a peasant farmer. The probation officer states that the offender is remorseful and humble.
5. The report further reveals that the deceased was about 24 years old at the time of his death and was married with 2 young children. The deceased's wife is a university student. The family of the deceased are reported to be distraught following the killing of their kin as he was the sole breadwinner for his young family. The deceased and the accused are reported to be close cousins who had no underlying grudges prior to the fateful day. The deceased's family pleads for justice for their loved one.
  6. I have considered the circumstances under which the offence was committed. I have also considered the mitigation put forth by the accused person and his advocate.
  7. I note that the offender is a fairly young man (minor) aged 17 years. He is reported to be a secondary school leaver. I also note that the deceased was an equally young man aged 24 years and married with a very young family. The Probation Officer's Report reveals that his death has dealt a devastating blow to his family.
  8. I have considered the fact that a precious life was lost through what started as a fight following disagreements between two young men who are also close relatives. From the facts of the case, the deceased and the accused were engaged in a fight over a stone that had allegedly been thrown on the deceased's roof. The deceased was stabbed with a file which the offender grabbed from him during the fight. The deceased died as a result of stab wound. Every life is precious and I am of the view that the accused should have walked away from the violent confrontation. It is also clear, from the facts of the case, that the offender may have acted in self defence as it is the deceased who was armed with the file before the accused snatched it from him and stabbed him. It was a case of the deceased falling on his own sword.
  9. Punishment for manslaughter is up to life imprisonment. The court however, has discretion, depending on the circumstances under which the offence was committed, to impose a lesser sentence.
  10. Taking into account the totality of the circumstances of the case, the accused's tender age and the fact that he is related to the deceased, I find that a non-custodial sentence would be appropriate for him to be rehabilitated and reform.
  11. I hereby exercise discretion and sentence the accused person Yuvinalis Mageto Jacktone to serve three years' probation term under the Nyamira County Probation Officer on the following conditions: -
    - i. The accused must obey the supervising Probation Officer and comply with any conditions set by the probation department;
    - ii. He must be of good conduct;
    - iii. He must not commit any offence during the probation period;
    - iv. The accused must attend guidance and counselling on anger management to be organized by the probation department;
    - v. The probation department shall organize a reconciliation between the families of the accused and the deceased, with the assistance of the local administration.
  12. The accused is cautioned that should he breach any of the above conditions he will be arrested and brought back to this court where a custodial sentence may be passed on him.
  13. It is so ordered.



**Sentence dated, signed and delivered at Nyamira via Microsoft Teams this 21<sup>st</sup> day of September 2023.**

**W. A. OKWANY**

**JUDGE**

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