



**Eiton v Republic (Miscellaneous Criminal Appeal E075 of 2023)
[2023] KEHC 23575 (KLR) (16 October 2023) (Judgment)**

Neutral citation: [2023] KEHC 23575 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT LODWAR
MISCELLANEOUS CRIMINAL APPEAL E075 OF 2023
RN NYAKUNDI, J
OCTOBER 16, 2023**

BETWEEN

KAACHALA EITON APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The applicant was convicted on his own plea for the offence of manslaughter contrary to section 202 as read together with section 205 of the [Penal Code](#). The applicant’s mitigation was considered by this court in sentencing him for a period of 15 years imprisonment.
2. Additionally, the court in sentencing the applicant considered the County Probation Officer’s report in which it was noted that it was not safe for the applicant to be given a non-custodial sentence for reasons that the community may mount revenge attacks. The area chief equally informed the probation officer that the community was not ready for the accused person.
3. The trial court expressed itself thus, when handing down the sentence;

“I have also taken into account the County Probation officer’s report in which it is noted that it is not safe for the accused to be given a non-custodial sentence because the community may mount revenge attacks.

Having considered the aforesaid mitigating factors I am convicted that the appropriate sentence should be custodial. I hereby sentence Kaachala Eiton, the accused person herein to serve 15 years imprisonment.”
4. The felony of manslaughter attracts a sentence of life imprisonment as provided for under section 205 of the [Penal Code](#) cap 63 (Laws of Kenya). In my view, this Court showed leniency in sentencing the Applicant to Fifteen (15) years imprisonment. This court holds a jurisdiction that is concurrent to the



jurisdiction of the learned trial Judge. Therefore, I cannot purport to sit on an appeal over the decision of a court of concurrent jurisdiction.

5. I find that the trial court gave consideration to the mitigation. To my mind that would explain why the applicant was sentenced to 15 Years imprisonment for an offence which could attract Life Imprisonment.
6. The resultant is that the application lacks merit and is therefore dismissed. His conviction and sentence meted upon him by this court be and is hereby left undisturbed.

It is so ordered.

DATED AND SIGNED AT LODWAR THIS 16TH DAY OF OCTOBER , 2023

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R. NYAKUNDI

JUDGE

