



**Republic v Langat (Criminal Case 4 of 2019)
[2024] KEHC 13767 (KLR) (5 November 2024) (Sentence)**

Neutral citation: [2024] KEHC 13767 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE 4 OF 2019
RL KORIR, J
NOVEMBER 5, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

COLLINS KIPKIRUI LANGAT ACCUSED

SENTENCE

1. The Accused, Collins Kipkirui Langat was charged with the offence of murder contrary to section 203 as read with Section 204 of the [Penal Code](#). The particulars of the offence were that on 16th day of January 2019 between Fields 45 and 46 of Itare Division, Koiwa Zone of Unilever Kenya Tea Ltd in Konoin Sub County within Bomet County, jointly with others not before court murdered one Julius Korir.
2. At the conclusion of the trial, this court found the Accused guilty of the lesser offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) and convicted him on 20th June 2024. The court directed the Probation Officer to file a pre-sentence report on the Accused.

Pre-sentence Report

3. A Pre-Sentence Probation Report was filed on 29th June 2024 according to the Probation Officer. The Accused did not own up to the responsibility of committing the offence. The social inquiry also revealed that the Accused carried himself with respect and courtesy while at home and in the community. That the Accused's family stated that the Accused was of good behavior, conduct and attitude and was someone who could be relied on.
4. The report also stated that the Accused had strong ties with the community. That together with his family, they were well known as people of high morality, decency and high ethical standards in the community. The community was reported as having asked this court to grant the Accused a non-custodial sentence due to his notable good character.



The Victim Impact Statement

5. The Probation Officer stated in his report that the family of the deceased could not be traced and neither could the contacts of the deceased's parents, relatives and other close family members be found. Consequently, the views of the victims were not captured in the report.
6. This court conducted a sentence hearing on 23rd July 2024 where the Accused and Prosecution submitted on mitigation.

The Accused's mitigation

7. Learned defence counsel Mr. Kenduiwo mitigated on behalf of the Accused. Counsel submitted that the Accused was a first offender and was married with one daughter, all who depended on him. That the best interest of his child should be considered by this court when sentencing the Accused. Counsel further submitted that the Accused was of good conduct, character and behavior and that the local community had no issue with the Accused being given a non-custodial sentence. He prayed for leniency stating that the Accused was remorseful.
8. Counsel submitted that the Accused's mother and their family had gone through challenges since the arrest of the Accused. That according to her, the family had not begun reconciliation with the deceased's family as the Accused was adamant that he did not participate in killing the deceased. That Kipsigis customary law demanded that the circumstances of the death must be clear before reconciliation and a cleansing ceremony could be conducted.
9. When the Accused was invited to address the court, he stated that he was remorseful and asked the court to grant him a non-custodial sentence so that he could go and serve the nation.

Submissions by the State.

10. Mr. Njeru, the learned Prosecution counsel submitted that the Accused still denied committing the offence despite the court's finding of guilt and did not therefore deserve leniency. Recalling the circumstances of the case, counsel urged that the Accused should have taken the deceased to the Police Station instead of beating and leaving him to die.
11. It was counsel's submission that the Accused ought to be punished by way of a custodial sentence however lenient. In his view, failure to impose a custodial sentence would send a wrong message that guards can take the law into their hands.

Consideration by the Court

12. In meting out a sentence, this court is guided by the objectives of sentencing as set out in law and various legal texts. The [*Sentencing Policy Guidelines*](#) 2023 outlines the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.
- ii. Deterrence.
- iii. Rehabilitation.



- iv. Restorative justice.
- v. Community Protection.
- vi. Denunciation.
- vii. Reconciliation.
- viii. Reintegration.

13. The [Sentencing Policy Guidelines](#) 2023 also outlines the principles underpinning the sentencing process at paragraph 1.2 as follows:-

- i. Proportionality: The sentence meted out must be proportionate to the offending behavior meaning it must not be more or less than is merited in view of the gravity of the offence. Proportionality of the sentence to the offending behavior is weighted in view of the actual, foreseeable and intended impact of the offence as well as the responsibility of the offender.
- ii. Equality/Uniformity/Parity/Consistency/Impartiality: The same sentences should be imposed for the same offences committed by offenders in similar circumstances.
- iii. Accountability and Transparency: The reasoning behind the determination of sentence should be clearly set out and in accordance with the law and the sentencing principles laid out in these guidelines.
- iv. Inclusiveness: Both the offender and the victim should participate in and inform the sentencing process.
- v. Totality of the Sentence: The sentence passed for offenders convicted for multiple counts must be just and proportionate, taking into account the offending behavior as a whole.
- vi. Respect for Human Rights and Fundamental Freedoms: The sentences imposed must promote, and not undermine, human rights and fundamental freedoms. Whilst upholding the dignity of both the offender (and where relevant, the victim), the sentencing regime should contribute to the broader enjoyment of human rights and fundamental freedoms in Kenya. Sentencing impacts on crime control and has direct correlation to fostering an environment in which human rights and fundamental freedoms are enjoyed.
- vii. Enhancing Compliance with Domestic Laws and Recognised International and Regional Standards on Sentencing: Domestic law sets out the sentences that can be imposed for each offence. In addition, those international legal instruments, which have the force of law under Article 2 (6) of the [Constitution of Kenya](#) should be applied. There are also international and regional standards and principles on sentencing that, even though not binding, provide important guidance on sentencing.

14. The penal section for the offence of manslaughter is contained in section 205 of the [Penal Code](#) which provides:-

Any person who commits the felony of manslaughter is liable to imprisonment for life.

15. I have considered the circumstances of the offence and how the deceased was killed. I have also considered the fact that even though the pre-sentence report stated that the Accused had persisted in his innocence and failed to take responsibility for his actions, the Accused addressed the court during the sentence hearing and stated that he was remorseful.



16. The Accused's family, his counsel and his local community urged this court to grant the Accused a non-custodial sentence. The Prosecution on the other hand urged this court to punish the Accused by handing him a custodial sentence however lenient. The [Sentencing Policy Guidelines](#) 2023 at paragraph 2.3.15 lists the factors that a court should consider when deciding to impose a custodial or non-custodial sentence. They are as follows:-
- i. Gravity of the offence: In the absence of aggravating circumstances, or any other circumstance that renders a non-custodial sentence unsuitable, a sentence of imprisonment should be avoided with respect to sentences that have been adjudged as deserving less than three (3) years.
 - ii. Criminal history of the offender: Taking into account the seriousness of the offence, first offenders should be considered for non-custodial sentences except where the seriousness of the offence crosses the custody threshold (where the offence is so serious that neither a fine or community sentence can be justified).
 - iii. Children in conflict with the law: Generally speaking, non-custodial orders should be imposed as a matter of course in the case of children in conflict with the law. The exception to this is in circumstances where in light of the seriousness of the offence, coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest. Custodial orders should only be meted out as a measure of last resort and in accordance with the guidance provided under section 239 of the [Children's Act](#), 2022. The court shall also issue post-committal supervision orders upon completion of the committal orders or the attainment of the age of majority where it is appropriate to so do in light of the nature of the offence and circumstances of the offender.
 - iv. Conduct of the offender: Non-custodial sentences are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - v. Protection of the community: Where there is evidence that the offender is likely to pose a threat to the community, a custodial sentence may be more appropriate. The probation officer's reports should inform the court of the risk posed by the offender to the community in order to inform sentencing.
 - vi. Offender's responsibility to third parties: Where committing an offender to a custodial sentence is likely to unduly prejudice others, particularly vulnerable persons who depend on them, a court should consider if, in light of the nature and seriousness of the offence, the objectives of sentencing can be met with a non-custodial sentence. The court should enquire into the offender's personal circumstances and, where appropriate, seek the assistance of a pre-sentence report.
17. Sentencing is usually at the court's discretion taking into consideration the circumstances of the case, the mitigation by the Accused, the submissions of the state and more critically the objectives set out in the [Sentencing Policy Guidelines](#) (2023).
18. I have considered that the Accused and his co-offender one Zephaniah Kandie, who is still a suspect at large, took the law into their hands in a misguided over zealous execution of their security duties leading to an unnecessary loss of life. I have also considered that the Accused was a first offender with no antecedents of anti-social conduct. The Probation report showed that the home and community environment was suitable for non-custodial rehabilitation. The Accused however persists in his innocence while at the same time stating that he was remorseful. A non-custodial sentence is suitable for one who was unreservedly remorseful as such a person would willingly accept rehabilitation guided by the probation office.



19. I have taken into consideration that the Accused was in pre-trial custody between January 2019 and January 2020 and also from 20th June 2024 to date, a total period of 1 ½ years. The Accused is sentenced to serve 3 years' imprisonment with effect from the date of his sentence.

Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 5TH DAY OF NOVEMBER, 2024.

R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Mr. Leteipa holding brief for Mr. Kenduiwo for the Accused, Mr. Njeru for the state and Siele (Court Assistant).

