



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 6 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

CHARLES KARANJA WANJIRU.....ACCUSED

RULING ON SENTENCE

1. On 23rd March, 2021, I delivered judgment in this matter on behalf of *Justice C. Meoli*. The learned judge after trial of **Charles Karanja Wanjiru (Charles)** for the offence of murder, by that
2. judgment convicted Charles for the offence of manslaughter contrary to **Section 202(1)** as read with **Section 205** of the Penal Code. The responsibility of sentencing Charles fell on me when *Justice C. Meoli* was transferred from the Kiambu High Court.

THE FACTUAL CONTEXT

3. **Charles** and **Michael Mwangi**, the deceased, were cousins. The deceased, on 19th July, 2014, went to a bar called Perennial. He arrived there at 4.00pm and was served alcohol. Prosecution's witnesses said that the deceased was seated in a back room of that bar. Charles arrived at that bar at 9.30 pm. His cousin the deceased invited him to join him at the back room. Shortly thereafter, as another patron was on the way to the washroom, she heard a loud thud noise. On entering the backroom that patron found Charles seated and the deceased on the ground. She noted the deceased was bleeding and therefore summoned a waitress, *Grace Wanjiru*. Charles on being asked by that waitress what happened he said that the deceased had disturbed him with his noise and he had pushed him off.
4. Although Charles later on denied having pushed the deceased and even at his defence maintained that the deceased fell because he was drunk, the trial court rejected that defence and proceeded to state in the judgment thus:-

“...the truth is that the accused (Charles), perhaps irritated by the pesky and drunk relative pushed the deceased away so forcefully that he fell to his death. There is however evidence that the two men had no previous disagreements and were both probably drunk at the time of the accident.”

ANALYSIS

5. The trial court after analysing the evidence found that Charles' action were absent malice aforethought. Consequently, the trial court convicted him of the offence of manslaughter. The trial court made this finding:-

“Despite the unreasonable force employed to ward off the deceased's drunken disturbances, there is nothing to suggest that the accused (Charles) had formed the intention or had knowledge that his action, albeit unlawful, would result I the death of the deceased.”

6. The above finding by the trial court will indeed mutilate in favour of Charles as I consider his sentence.

7. Charles, as stated in the pre-sentencing report of the probation, is 46 years old. He is married, now for 24 years. He is blessed with two children. The oldest child is due to join University while the youngest is in grade 4. The report stated that the family depends on the financial support of Charles.

8. The learned advocate for Charles, *Mr. Muchiri* submitted in mitigation that a non-custodial sentence will be rehabilitative for Charles. The advocate also submitted that Charles is remorseful. He therefore requested the court to be lenient towards Charles and prayed for non-

custodial sentence.

9. One of the purposes of sentencing a convicted person is to contribute to the respect of law and the maintenance of general deterrence. In the case **REPUBLIC V. JAGAN AND ANOTHER (2001) eKLR** the court set out the purposes of sentence as:-

“The purpose of a sentence is usually to disapprove or denounce unlawful conduct as a deterrent to deter the offender from committing he offence, to separate offenders from society if necessary to assist in rehabilitation of offenders, and in retribution by providing for reparation for harm done to victims in particular to society in general. It is also seen as promoting a source of responsibility in offenders”.

10. The action of Charles in pushing the deceased, which resulted in the death of the deceased though not intended, resulted in the death of a man who was 41 years old and who was married with four children. There is no amount of sentence that can replace a life lost. This indeed was stated in the case **REPUBLIC VS. PETER LEKUPE (2017) eKLR** thus:-

“10. There is indeed no sentence that ever can reflect the value of life. It is however clear to this court from facts available that the accused did not intend to kill the deceased. The court will however have to balance the public disapproval of taking another person’s life and the lack of accused intend to kill the deceased.”

11. Having considered the factors surrounding the offence for which Charles was convicted and mitigation presented to the court. I am of the view that sentence of one year and 6 months is appropriate to promote, in Charles a sense of responsibility and his acknowledgement that his actions were unlawful. His actions resulted in the family of the deceased losing its breadwinner.

DISPOSITION

12. Charles was in custody from 4th August, 2014 up to 3rd February, 2015 when he was released on bail. I therefore hereby sentence **Charles Karanja Wanjiru** to serve prison sentence of 1½ years (one year and six months) for the offence of manslaughter, which resulted in the killing of **Michael Mwangi Njoroge deceased**.

13. In calculating the sentence of **Charles Karanja Wanjiru**, there shall be given credit to him for the period between 4th August, 2014 and 3rd February, 2015 when he was in custody before being released on bail.

14. Orders accordingly.

RULING DATED and DELIVERED at KIAMBU this 6th day of JULY 2021.

MARY KASANGO

JUDGE

Coram:

Court Assistant: Ndege

Accused : Present

For **DPP:** Ms. Kathambi

COURT

Ruling delivered virtually.

MARY KASANGO

JUDGE