



**Republic (ODPP) v Wanyama (Criminal Case E013 of 2025)
[2025] KEHC 13478 (KLR) (30 September 2025) (Sentence)**

Neutral citation: [2025] KEHC 13478 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E013 OF 2025
AC BETT, J
SEPTEMBER 30, 2025**

BETWEEN

REPUBLIC (ODPP) PROSECUTION

AND

KENNEDY SIFUNA WANYAMA ACCUSED

SENTENCE

1. The Accused Kennedy Sifuna Wanyama was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. Subsequent to a Plea Agreement dated 25th March 2025, the Accused opted to plead guilty to a reduced charges of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. After the court was satisfied that the Plea Agreement was entered into voluntarily and upon compliance with Section 137F and 137G of the Criminal Procedure Code, the court adopted the Plea Agreement and the Accused pleaded guilty to the offence.
3. The factual basis of the offence was that on 12.2.2025, the police received a report from the area Chief of Makokhwe sub-location who stated that a body had been discovered lying on the road in Nanjori village. The police, who were from Musambaa Police Station embarked on investigations and established that the body belonged to one John Olukuru aged 56 years old. They body was found lying lifeless in a pool of blood with a knife stuck in the chest. About 3 metres away from the scene was a slaughtered pig which was established to have been stolen from the deceased.
4. Further investigations led to the Accused who was traced to Navakholo Hospital where he was found being treated for a deep cut wound on the left cheek. On interrogation, the Accused confessed to have killed the deceased. The Accused said that he was in a group when they attacked the deceased and caused him the fatal injury. The Accused named his two accomplices who are at large as Boniface Okango and Richard Oramu.



5. It was further established that the pig had been stolen from the deceased on the fateful night and he woke up to trail the thieves whom he managed to trace. The deceased attacked the thieves and cut the Accused, who was among the thieves, with a panga. The Accused and his accomplices then stabbed the deceased. At the scene of the incident were blood drops which led the police officers to Navakholo Hospital where they found the Accused being attended to. Ultimately, the investigators concluded that the knife that had been used to slaughter the pig was the same one that was used to stab the deceased to his death.
6. On 16.2.2025, an autopsy was conducted on the body at Bungoma Funeral Home by Dr. Mchana, a Pathologist who formed the opinion that the cause of death was internal bleeding secondary to a penetrating chest injury (stab wound) following assault. The Pathologist filled a post-mortem form which was produced by the Prosecution alongside the photographs of the deceased and the slaughtered pig together with the requisite certificate to process and print photographs in compliance with Section 78A of the *Evidence Act*.
7. In mitigation, Mr. Biketi for the Accused submitted that the Accused is remorseful and regrets committing the offence which he did after being attacked by the deceased. He further submitted that the Accused had saved court's time by pleading guilty to manslaughter and that the Accused is a single father with four minor children who jointly with his mother depend solely upon him. He further urged the court to disregard the pre-sentence report that states that the Accused is a habitual thief and cited the case of Republic v. Cosmas Mutinda [2021] eKLR in which it was held that the Probation Officer's Report is merely persuasive and not binding to the court as it is not subjected to cross-examination.
8. On its part, the Prosecution through Ms. Chala submitted that the Accused has a previous conviction and a three (3) year sentence and that he is a habitual thief and committed the offence while in the course of stealing.
9. The pre-sentence report stated that the Accused was previously convicted and sentenced to 3 years for burglary and stealing. The Accused is said to be a father of two minor children. His wife is said to have disappeared from his home after the offence as the Accused's house was burned and demolished.
10. From the pre-sentence report, the Accused does not demonstrate much remorse as he tries to shift responsibility to the deceased on the allegation that had the deceased not injured him first, he would not have been killed. However, the Accused was accompanied by two other people and could have overpowered the deceased without resorting to the knife. The stab wound to the chest was excessive taking into account the entire circumstances.
11. The offence robbed the deceased's family of their sole breadwinner. The widow is now left to fend for six school-going children who were traumatized by the sight of their father's lifeless body. The young children have been deprived of paternal love.
12. Under Section 205 of the Penal Code, the offence of manslaughter is punishable by a maximum sentence of life but the discretion as to what sentence is suitable is left to the discretion of the court. In determining the appropriate sentence, I am guided by the mitigating and aggravating factors which include:-
 - (a) The seriousness of the offence.
 - (b) The circumstances under which the offence was committed.
 - (c) The need for deterrence.
 - (d) The need for retribution.



- (e) The need to protect the community.
 - (f) Denunciation.
 - (g) Reconciliation.
 - (h) Re-integration of the offender.
13. Apart from the Judiciary Sentencing Policy Guidelines 2023, the Supreme Court of Kenya also laid down guidelines that should be considered during re-sentencing. The said guidelines are also relevant in this case and include:-
- (a) Age of the offender.
 - (b) Being a first offender.
 - (c) Whether the offender pleaded guilty.
 - (d) Character and record of the offender.
 - (e) Commission of the offence in response to gender-based violence.
 - (f) The manner in which the offence was committed on the victim;
 - (g) The physical and psychological effect of the offence on the victim's family;
 - (h) Remorsefulness of the offender;
14. The Accused committed the offence while in the cause of slaughtering a stolen pig that belonged to their victim. The victim was entitled to protect his property although he chose to do so in a violent manner. The Accused who had been released on Community service pursuant to a three year sentence did not demonstrate any reform. The sentence imposed upon the Accused must be commensurate with the offence and must be such that it will not only deter him from further offences in future but also grant him an opportunity for rehabilitation while in custody considering that he is still young.
15. Having considered the aggravating and mitigating factors herein, I find that the sentence jointly proposed by the prosecution and the Accused is not appropriate. The circumstances under which the offence was committed call for an enhanced sentence.
16. I hereby sentence the Accused to thirteen (13) years imprisonment. The period spent in custody since his arrest should be considered and deducted as required by Section 333 of the Criminal Procedure Code.
17. It is so ordered.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 30TH DAY OF SEPTEMBER 2025.

A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the Prosecution

Mr. Biketi for the Accused

Court Assistant: Polycap

