



**Republic v Shumba (Criminal Case E008 of 2022)
[2025] KEHC 14131 (KLR) (9 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14131 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE E008 OF 2022
JN KAMAU, J
OCTOBER 9, 2025**

BETWEEN

REPUBLIC ACCUSED

AND

CALEB SHUMBA ACCUSED

SENTENCE

1. The Accused person herein was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 (Laws of Kenya). He entered into a Plea Bargain Agreement on 11th July 2025 whereupon this court convicted him of the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code Cap 63 (Laws of Kenya).
2. The facts of the case were that on 12th July 2024, Janepher Khitembuli Khasoa (hereinafter referred to as the “deceased”) had a quarrel with her son the Accused person herein over a portion of land she wanted to sell but the Accused person was against it.
3. After the dispute, the deceased went to the farm to collect grass for her cows while the Accused person went into his house, armed himself with a panga and followed her to the farm where he confronted her and cut her on the head.
4. The Accused person then went back home and informed his wife Yvonne Musimbi that he had cut his mother on the head at the maize plantation and she had died. He ordered her to accompany him dispose the body. They took the body of the deceased, placed it in a sack and dumped it in a gold mine hole which was about three hundred (300) meters away from the homestead.
5. On 14th July 2022, the Accused person decided to sell a cow belonging to the deceased and their neighbors became suspicious and inquired about her whereabouts. He could not give a satisfactory response. The members of the public beat him up and he disclosed to them that he had killed his mother and further led them to where he had dumped the body.



6. The Village Elder, Antony Shavai reported the matter at Cheptulu Police Station and police officers visited the scene. They rescued the Accused person from the angry members of the public and took him to Muhudu Patrol Base. Police Officers from DCI Serem were informed and they went to the scene. They retrieved the body of the deceased which was in a polythene sack and took it to Vihiga County Referral Hospital Mortuary.
7. Investigations were commenced and on 15th July 2022, the Accused person led the police officers to his homestead and where the murder weapon, a panga, was recovered in a house hidden on the roof.
8. A postmortem examination on the body of the deceased was carried out on 22nd July 2022. The Pathologist formed the opinion that the cause of the deceased's death was intracranial hemorrhage secondary to trauma by a blunt object. The Postmortem Report dated 22nd July 2022 was produced as Exhibit 1.
9. Having entered into a Plea Agreement, the Accused person proposed that he serves a sentence of five (5) years imprisonment while the Prosecution recommended a sentence of twenty (20) years imprisonment.
10. In his mitigation, the Accused person stated he was very remorseful for having committed the offence. He asserted that the deceased was his biological mother and she was always attacking his father who was frail. He explained that as the first born in his family, he was tasked with the responsibility of constantly reconciling the deceased and his father. He stated that on the material date, the deceased attacked his father with a panga which he managed to wrest from her and by mistake, he cut her neck causing her death.
11. He pointed out that he had been in custody since 14th July 2022 and he had reflected on his actions. He added that he had also undertaken several courses that would help him being re-integrated back to the society. He committed to move out from his home to a different area as he tried to reconcile with the community so that it could accept him back into the society.
12. He further stated that he was a father of three (3) children aged, seven (7), six (6) and four (4) who he had not seen since he was incarcerated. He averred that his brothers who visited him in prison had informed him that although his wife was present, she could not sustain the children from the odd jobs that she was doing causing them to suffer greatly. He said that he was their bread winner and hence prayed for a lenient sentence, a non-custodial sentence to enable him take care of them.
13. On its part, the Prosecution submitted that the Pre-Sentence Report was negative. It stated that the deceased was the biological mother to the Accused person and that the immediate family had asked that a custodial sentence be meted out against him. It emphasised that the said family and the community did not want him back as a result of which the Local Administration urged this court to hand him a custodial sentence.
14. It suggested that since the Accused person had a history of drug abuse, a custodial sentence would help him to be rehabilitated. It added that a custodial sentence would also deter other would-be offenders from committing a similar offence.
15. It asked this court to consider the head injury that the deceased sustained and the fact that the Accused person disposed of the deceased in a hole which was clear that he was trying to hide evidence. It, therefore, urged this court to sentence him to twenty (20) years as it had suggested in its Plea Agreement.



16. According to the Pre-Sentence Report of Mariam Korir, Probation Officer, Vihiga County, that was dated 1st August 2025 and filed on 5th August 2025, the Accused person was thirty-five (35) years of age. He attended Sekuti Primary School but dropped out while in class four (4) in the year 2000 due to separation of his parents. He left home and stayed with his aunt in Chepkumia Nandi County but later returned home and started gold mining at Kipiriri forest. He was married and had been blessed with four (4) children. He was a Christian but admitted to have been abusing alcohol and smoked bhang until 2022 when he stopped.
17. He admitted having committed the offence and sought for forgiveness from his family. He was remorseful and pleaded with court to grant him a lenient sentence.
18. His family pointed out that the deceased was the Accused person's biological mother. They blamed the deceased for altercation but also blamed him for going to the extent of killing her. They pointed out that the incident brought hostilities in the community and the community members wished not to associate with him. They urged the court to punish him for the offence committed and noted that traditions would not allow him to be welcomed back home.
19. The Local Administration and the community reported that although the Accused person did not have any criminal history, he was not welcomed back into the community as the offence he committed was an abomination and attracted excommunication from the community. The local clan elders had actually issued a stern warning from him returning to the community.
20. The Probation Office indicated that according to the Accused person's account and that of other family members, the Accused person was intervened to separate his parents who were fighting and ended up killing the deceased during the altercation. It, however, observed that he was not fit for community rehabilitation. It urged the court to dispense the matter as deemed fit.
21. Notably, sentencing is one of the most intricate aspects of trial. Indeed, a trial does not end unless a sentence has been meted out. The principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya have added community protection and denunciation as sentencing objectives. The objectives are not mutually exclusive and can overlap.
22. It was also important that the sentence communicate to the community, condemnation of his criminal act. The sentence would indirectly send a strong signal to deter would be offenders from committing such an offence. The sentence also had to be one that was hinged on retributive justice for the secondary victims.
23. If the court did not take into account the three (3) objectives of deterrence, retribution and denunciation of his offence at the time of sentencing him, chances of the Accused person being reintegrated in the society would be next to impossible as there were possibilities of being harmed.
24. Killing someone is an abomination in the society. It is even worse when one kills his or her parents. That could explain why the community, which included the local clan elders, had excommunicated the Accused person from the society. It did not matter what aggression a parent exhibited. A child had to exercise utmost restraint towards persons who had given him or her an opportunity to be in this world and reach where he or she had reached in life. Justice, then, not only needed to be done but it had to be seen to be done.
25. The Pre-Sentence Report revealed a history of longstanding domestic disputes between the deceased and other family members. Reports suggested that she had been a source of conflict within the family



and there was credible suspicion that the Accused person possibly colluded with other relatives to eliminate her. Additionally, drug abuse on the part of the Accused person was also identified as an aggravating factor contributing to the deteriorating domestic environment.

26. Be that as it may, it was clear from the facts of the case and the Pre-Sentence Report that the Accused person killed his mother after an altercation. Although the deceased may have provoked him, he ought not to have cut her on the head and neck. The act of cutting her with a panga was not to restrain her from attacking him but rather, it was intended to cause her harm. The extreme anger was not worth the trouble. Burying her body in a most inhumane manner to hide evidence and escape from any culpable liability was very heinous. Selling her cow was even more heinous.
27. Having considered the facts of this case, the Accused person's mitigation, the Prosecution's response thereto, the Pre-Sentence Report and bearing in mind that sentencing was the sole discretion of the court, this court came to the firm conclusion that a sentence of fifteen (15) years' imprisonment was suitable and adequate herein purely because the Accused person entered into a Plea Agreement and it appeared that he was intervening in a dispute between his parents prior to the attack. This court found it prudent to consider his version as it had also been reported in the Pre-Sentence Report by the Probation Office, an impartial office with no interest in this matter. Under normal circumstances and if the matter had proceeded in court, there was a possibility of the sentence herein having been quite stiff.
28. The Accused person was arrested on 14th July 2022. His Pre-Bail Report was negative and he, therefore, was remanded in custody. The period that he spent in custody ought to be taken into account in line with Section 333(2) of the [Criminal Procedure Code](#) Cap 75 (Laws of Kenya).

Disposition

29. Accordingly, it is hereby directed that the Accused person be and is hereby sentenced to fifteen (15) years' imprisonment to run from the date of this Sentence.
30. For avoidance of doubt, it is hereby ordered and directed that the period that the Accused person spent in custody between 14th July 2022 and 8th October 2025 be taken into account when computing his sentence in accordance with Section 333(2) of the [Criminal Procedure Code](#) Cap 75 (Laws of Kenya).
31. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 9TH DAY OF OCTOBER 2025

J. KAMAU

JUDGE

