



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Hamisi (Criminal Case E20 of 2023)  
[2025] KEHC 15404 (KLR) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15404 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ITEN  
CRIMINAL CASE E20 OF 2023  
E OMINDE, J  
OCTOBER 30, 2025**

**BETWEEN**

**REPUBLIC ..... COMPLAINANT**

**AND**

**KADIRI MAINDI HAMISI ..... ACCUSED**

**RULING**

1. This is a Ruling on sentence. The accused was charged with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. Subsequently, the accused entered into a Plea Bargain Agreement with the State and the offence was reduced to a charge of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. Before passing sentence, the Court directed that a Pre-Sentence Report be filed by the Probation Office for the Court's consideration. The same dated 21<sup>st</sup> October 2025 prepared by one Josephine Siemi a Probation Officer at Iten was filed and I have considered the same.
3. The salient points in the Report is that the accused was born in the year 1986 and is the third born in a family of seven and that before his arrest, he was working as a plumber. The Report states that his father Badiri Hamisi is a retired Survey Officer and lives in Iten and his mother Lucy Kwamboka is a worker at Kerio Valley Hotel. That between the accused and the deceased who was his wife, they have a total of five children and the youngest is in grade. The children are currently in the care of the accused parents
4. The Report proposes that the accused be sentenced to a term of Probation of three years. This proposal is given even as the Report states that in the year 2002, he was committed to Shikusha Borstal Institution for the offence of stealing. That the community members interviewed reported that the accused was not a first time offender as he was known to have committed numerous offences among them stealing and that he started these ill traits when he was a juvenile leading to his committal to the



- Borstal Institution. That the marriage between the accused and the deceased was toxic and they were frequently fighting and that it is abuse of alcohol that led to this state of affairs.
5. The Report then goes on to state that the accused exhibits signs of regret and sorrow for his actions, pleads for leniency and seeks for forgiveness stating that he has learnt his lessons the hard way and wishes to go back home and take care of his young children. That he has been diagnosed with diabetes mellitus and severe anemia while in prison and is suffering for lack of the essential diet. Further the report states that the parties have had several meetings and have reconciled the necessary apologies offered, and the attendant cleansing ritual and rites have been conducted. That for this reason, both the family of the deceased and the accused as well as the community are ready and willing to accept him back into the community.
  6. On the other hand, in the Plea Bargain Agreement, the State proposed a term of 10 years' imprisonment. It is the position of the State in making this proposal is that there are aggravating facts and circumstances of the case this being a gender-based violence case. That further, this was not the fact that this was the 1<sup>st</sup> time the accused was assaulting the deceased and that the court also needs to take into consideration the fact the accused killed the deceased in cold blood in front of their innocent children who will live with the trauma for the rest of their lives.
  7. I have carefully considered all the issues raised and the reasons given for and against the proposed sentences. To my mind, the parties may indeed have reconciled among themselves as adults which is fine. However, I note that nowhere in that report is it indicated that any consideration was given to the children and/or that their views were sought. Nowhere in that report is it indicated that the assistance of a Counsellor at whatever level was sought to debrief these children, gauge their emotions over the death of their mother given the circumstances under which she died and seek their thoughts, feelings, views and opinions for whatever it is worth over the proposal that their father be put on probation particularly considering that one of the reasons for which this sentence is being proffered is so that the accused can go back home and take care of the very same children.
  8. This in my very well considered opinion this ought to have been a very important aspect of the Pre-Sentence Report that proposes a probation sentence for reasons that it is the mother of these children that was killed and so therefore their views which should be the ones that should have been given the most primary consideration do matter. The court also takes into consideration the fact that their mother was killed in their presence and as stated in the said Report it is these children that made a distress call and alerted the neighbors who came to their rescue and informed the police.
  9. In this regard, I entirely agree with the State that the fact that these children will live with this trauma for the rest of their lives is not a farfetched, but is a very real and immediate possibility. One of the principles underpinning the sentencing process is the principle of Proportionality which states that 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.
  10. It is my considered opinion that the impact that the accused action has had on his own children is too deep and so the proposed probation sentence, notwithstanding the reasons given is not merited. Even as the accused may have saved the court's valuable time by entering into the Plea Bargain Agreement, in my view, a sentence that is proportionate to the gravity of the offence is necessary. In considering that the accused is of ill health as stated in the Report, I sentence him to serve a term of 10 years' imprisonment.
  11. Right of Appeal 14 days.



**READ DATED AND SIGNED AT ELDORET ON 30<sup>TH</sup> OCTOBER 2025.**

**E. OMINDE**

**JUDGE**

