



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KABARNET

CRIMINAL CASE NO. E020 OF 2022

REPUBLIC **PROSECUTION**

VERSUS

HANNAH KIPNGETICH **ACCUSED**

RULING ON SENTENCE

1. The accused **HANNAH KIPNGETICH** was charged with the offence of murder contrary to Section 203 as read with section 204 of the Penal Code.
2. Upon close of prosecution case, the defence counsel made an offer for plea bargain resulting in plea bargain agreement being reached with the charge being reduced to manslaughter. On 28th October 2025, the lesser charge of manslaughter was read over and explained to the accused who pleaded guilty and was consequently convicted of the offence of manslaughter contrary to section 202 as read with section 205 of the penal code. The prosecution informed that

they do not have previous records of the accused and she be treated as a first offender.

BRIEF CIRCUMSTANCES OF THE CASE

3. On 18.9.2022, the accused in the kitchen with her children Kipkulei, Lengasin and Kipsang when her other child Naiku Kipngetich who is the deceased herein arrived home and the accused asked him where he was coming from and why he left the child Kipkulei unattended yet she had given him that responsibility in the morning. The deceased threw his hands. The accused saw that as disrespect from the deceased and hit her with a cooking stick on the chest and face. Later accused gave food to the deceased and other children. at 8 p.m., the deceased left the house and went to Betty pw6 herein where she informed her that her mother hit her with a cooking stick because she had gone to her uncle to watch TV. The next day, the deceased woke up feeling unwell and on pw6 checking her, she saw her face swollen. pw6 went to ask the accused to take the deceased to hospital. The deceased's condition deteriorated and on 22/9/2022, the deceased died. Upon conducting postmortem, the doctor confirmed that the deceased died from renal disfunction likely due to muscle injury following assault. On 11/10/2022, the accused was charged with the offence of murder.

MITIGATION

4. The defence counsel Mr. Mbeche mitigated on behalf of the accused. He submitted that the accused has 4 children and that she pleads for lenient sentence preferably non-custodial sentence reason being the accused's other 3 children still need motherly care. Further, that she has been in touch with relatives at home three of who were present in court during sentence hearing and if committed to non-custodial sentence.
5. Counsel further submitted that the accused is a patient undergoing cancer treatment and in need of palliative care and attention and in the circumstances of non-custodial sentence, she will get help from her children and relatives. He concluded that the accused is remorseful of the circumstances that led to the death of the deceased herein who is her child.

PRE-SENTENCE REPORT

8. From the presentence report filed, the accused is 35 years old. She dropped out of school in form 3. the deceased was accused's son. Her husband who is the father of the deceased is elderly and senile. The sister tried to speak to him to understand what is happening concerning this case. The family of deceased who are also deceased's family have forgiven her for the sake of the other children who have now

been distributed to other relatives due to absence of their mother the accused herein.

9. The area chief stated that the accused was of good conduct prior to the offence. The community describe her as a hard-working family woman who strives to take care of her family as she is the bread winner due to her husband's advanced age. The area chief confirmed that the family have agreed to forgive her for the sake of her children and as local administration, they are not opposed to accused being released on non-custodial sentence. A neighbor to accused one Kabon stated that since the accused was arrested, her children lacked parental care forcing her to take 2 of the children while the other went to live with her Aunt and the other with the uncle leaving 2 eldest children at home. She prayed for noncustodial sentence so that the accused can go and take care of her children.

ANALYSIS AND DETERMINATION

10. I have considered the facts and circumstances of this case, the mitigation by defence counsel, and the pre-sentence report filed herein. The accused pleaded guilty to the reduced charge of manslaughter, thereby saving the court's time and demonstrating remorse for her actions.

11. The offence arose out of a domestic dispute between the accused and her son, the deceased, over failure to attend to a sibling as instructed. What began as an act of discipline unfortunately escalated into an assault that resulted in the death of the deceased. There is no evidence that the accused intended to cause the death of her child. The incident appears to have been spontaneous, provoked by anger and frustration, rather than premeditated.
12. The consequences were however grave as a young life was lost at the hands of his own mother. The law places great value on the sanctity of life, and courts must express society's condemnation of unlawful act of taking of life, even where it arises in domestic or emotional circumstances.
13. In sentencing, the court is guided by the objectives set out in the Sentencing Policy Guidelines (2023) namely, retribution, deterrence, rehabilitation, restorative justice, and community protection. The court must also balance the interests of justice by considering both aggravating and mitigating circumstances.
14. The aggravating circumstances herein are that the victim was a minor and the accused's own child, creating a position of trust which she breached and the deceased suffered pain

before death, as evidenced by the post-mortem findings of injuries leading to renal dysfunction.

15. **MITIGATING FACTORS:**

- a) The accused pleaded guilty to the lesser charge, saving the court's time and sparing the family further anguish.
- b) She is a first offender with no record of previous violence.
- c) She is undergoing cancer treatment and in need of palliative care.
- d) She is remorseful and has been forgiven by her family and the community, as confirmed in the pre-sentence report.
- e) She is the sole caregiver of her minor children who have been left without parental care since her arrest.

16. The probation officer and the local administration both recommend a non-custodial sentence, noting that the community has reconciled with the accused and is willing to reintegrate her for the benefit of her children. The court also notes that the offence occurred within a domestic setting, and the accused has already suffered emotional punishment for causing the death of her own child.

17. Considering the totality of circumstances, I find that the objectives of sentencing particularly rehabilitation and restorative justice can be achieved without resorting to a

custodial term. However, the sentence must still reflect the seriousness of the offence and promote accountability.

18. In the result, I am persuaded that a non-custodial sentence would best serve the interests of justice in this case. The accused shall therefore be placed on probation for a period of three (3) years which will allow the accused to Continue with medical treatment and counseling, be under the supervision of the Probation Officer, Kabarnet and engage in community service and parenting guidance sessions as directed.

19. **FINAL ORDERS:** -

- a) Accused placed on probation for a period of 3 years
- b) Right of appeal 14 days.

Ruling delivered, dated and signed Virtually at Kabarnet this 6th
Day of November 2025.



.....
RACHEL NGETICH
JUDGE

In the presence of:

- CA Elvis/Momanyi
- Mr. Mbeche for accused
- Ms. Bartilol for state

- CA, Elvis/Momanyi.
- Accused

ORIGINAL