

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISUMU**  
**CRIMINAL CASE NO. E019 OF 2024**

**REPUBLIC.....PROSECUTION  
COUNSEL**

**-VERSUS-**

**DENNIS OMONDI ONYANGO.....  
ACCUSED**

**SENTENCE**

**A. BACKGROUND.**

1. The Accused person herein **Dennis Omondi Onyango** alias **Denno wa Njugu**, 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*.
2. The particulars were that on 22<sup>nd</sup> May, 2023, at Chemilil area in Muhoroni Sub-County within Kisumu County, the accused murdered **Joseph Otieno Murende** alias **Otongolo** (hereinafter referred to as "*the deceased*").
3. Pursuant to a plea agreement executed on 24<sup>th</sup> June, 2025, the accused voluntarily pleaded guilty to the lesser offence of manslaughter contrary to *Section 202* as read with *Section 205* of the *Penal Code, Cap 63 Laws of Kenya*.
4. The particulars of the substituted charge were that, on the same date and at the same place, the accused unlawfully killed the deceased.

5. The Court commends the parties for resorting to a plea agreement, which promotes expeditious disposal of matters and judicial economy. As observed in **Republic v Stephen Kiprotich Leting [2019] eKLR**, plea bargaining fosters restorative justice while conserving judicial time.

#### **B. FACTS OF THE CASE.**

6. The prosecution's summary of facts reveals that the deceased found the accused in the company of his wife at a farm where she was weeding. The deceased, armed with a panga, confronted the accused and demanded to know whether the accused was having an affair with his spouse.
7. In response, the accused retorted in Swahili, "*leo mimi namaliza wewe*" ("I will finish you today"), and a physical confrontation ensued. The accused overpowered the deceased, seized the panga, and struck him on the left side of the face and head. The deceased collapsed and died instantly. The accused fled the scene.
8. Police officers arrived at the scene and removed the body to the mortuary. The postmortem examination revealed that the cause of death was massive subdural haematoma with a deep penetrating injury to the head, secondary to severe head trauma inflicted by a sharp object.

9. The accused was later arrested on 29<sup>th</sup> May, 2025 and was subsequently charged.

### **C. MITIGATION.**

10. In mitigation, **Mr. Oduk**, learned counsel for the accused, submitted that the accused has been of good conduct, is a first offender and had shown remorse by voluntarily entering into a plea agreement—thus saving the Court's time.
11. Counsel further stated that the accused comes from a humble background and has been deeply affected by the tragic outcome of his actions. He prayed for leniency.
12. The presentence report filed in court indicates that the accused is unmarried and has no children and recommends. The report recommends for a custodial sentence.

### **D. ANALYSIS AND DETERMINATION.**

13. The issue before this Court is the appropriate sentence to impose, taking into account the circumstances of the case, the mitigation offered, and the applicable legal principles.
14. The facts presented show that the deceased was the initial aggressor, having confronted the accused while armed with a panga, based on suspicion of his wife's infidelity with the accused person. There is no indication that the accused and the deceased's wife were found in a

compromising situation or that there existed prior animosity between the accused and the deceased, save for the deceased's suspicion.

15. In **Republic v Andrew Mueche Omwenga [2009] eKLR**, the court held that provocation and the heat of passion may reduce what would otherwise amount to murder to manslaughter.
16. Similarly, in **Republic v John Kipkemoi Chepkwony [2018] eKLR**, the court observed that a spontaneous fight without prior planning or malice aforethought typically attracts a conviction for manslaughter, not murder.
17. While the law does not excuse crimes committed in anger, it recognises such emotional states as mitigating factors.
18. In **Republic v Daniel Kipkurui Chepkwony [2016] eKLR**, the court stated that where death occurs in the heat of passion upon sudden provocation, the sentence should reflect that the act was not premeditated.
19. The court is further guided by the Judiciary's *Sentencing Policy Guidelines*, particularly paragraphs 23.9-23.11, which require that sentences for manslaughter take into account whether the offence was premeditated, the degree of provocation, the weapon used and the level of remorse shown by the offender.

20. In the present case, the accused acted impulsively in response to confrontation by the deceased. However, the court cannot ignore that a life was lost. As observed in **Republic v Daniel Muthee [2019] eKLR**, the sanctity of life is paramount and any unlawful termination of life must attract a custodial sentence to serve both punitive and deterrent purposes.
21. I am satisfied that this was an impulsive act committed in the heat of passion and without malice aforethought. However, the fatal consequences call for a significant custodial term.
22. Taking into account the mitigating and aggravating circumstances, the recommendations of the presentence report, the plea agreement and relevant case law, I find that a custodial sentence is appropriate.
23. Consequently, I proceed to sentence the accused person, **Dennis Omondi Onyango** alias **Denno wa Njugu**, to 15 years imprisonment for the offence of manslaughter contrary to *Section 202* as read with *Section 205* of the *Penal Code*.
24. In line with *Section 333(2)* of the *Criminal Procedure Code*, the sentence of 15 years shall run from 14<sup>th</sup> June, 2024, being the date when the accused was first presented before this court, following his arrest, noting that he has been in custody throughout his trial.

25. The accused has a right of appeal within 14 days from the date hereof.

26. This file is hereby closed.

DELIVERED, DATED & SIGNED in open court this 3<sup>rd</sup> day of November, 2025.

**JOE M. OMIDO**  
**JUDGE**

Accused: Present.

**Ms. Muema**, Prosecution Counsel for the State.

**Ms. Wanjiru** for **Mr. Oduk**, Advocate for the Accused.

**Mr. Ngoge & Mr. Juma**, Court Assistants.