

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIBERA**  
**CRIMINAL CASE NO. 52 OF 2023**

**REPUBLIC.....PROSECUT  
OR**

**VERSUS**

**MATHEW ARIANDA OKONGO.....  
ACCUSED**

**JUDGEMENT**

1. The accused Mathew Arianda Okongo was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63 laws of Kenya. The particulars are that on 21<sup>st</sup> September 2022 at around 1530Hrs in Karen Hardy area in Bogani East Road within Nairobi County unlawfully killed Miriam Auma Okongo. The accused pleaded not guilty to the charge.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He signed a plea agreement on 17<sup>th</sup> July 2025. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as outlined in the plea agreement, are as follows. On 21<sup>st</sup> September 2022 at about 3.30 pm, at House Number 7 along Bogani East Road in Hardy, Karen, Langata Sub-County, the deceased, Miriam Auma Okongo, aged 77 years, was at home with her son, the accused, Mathew Arianda Okongo. They lived together in the main house within a compound that also had ten rental units occupied by tenants.

4. On the material day, an argument arose between the accused and the deceased after the accused, without provocation, removed the deceased's clothes and personal belongings from the house and began burning them at the compound's garbage pit. During the confrontation, the accused dragged his mother, who was naked, from the bathroom to the outside.
5. At that time, one of the tenants, Rocky Govedi Asutsa, was inside his house when he heard a loud bang from the deceased's house, followed shortly by another bang and the sound of shattering glass. He then heard the deceased screaming repeatedly, "Lord, Jesus, please don't kill me." Alarmed, he rushed to the fence separating his house from that of the deceased. From there, he saw the accused dragging the deceased, still naked, towards the burning fire at the garbage pit. He witnessed the accused push her into the fire.
6. As the deceased resisted, the accused briefly fell into the fire and sustained burns but got up and again pushed her back using his legs. Rocky shouted at him to stop and ran to the scene, where he managed to rescue the deceased, who had suffered extensive burns to the head, hands and back. Rocky took the deceased to his house, gave her a bedsheet to cover herself, and contacted the caretaker, Peter Nzambu Ng'arwa. He arranged transport, and together with another lady tenant, they took the deceased to Hardy Police Station.
7. They reported the incident to PC (W) Clara Chepyatich under OB 27/21/09/2022 and were advised to rush her to hospital. She was taken to Mbagathi Hospital, where she received first aid before being transferred to Kenyatta National Hospital and admitted to

the Burns Unit. Despite treatment, she succumbed to her injuries on 30<sup>th</sup> September 2022 at 6.00 am. Her body was preserved at the hospital mortuary.

8. On 4<sup>th</sup> October 2022, her relatives, Luka Othieno and Frank Onjala, identified the body to the Government Pathologist, Dr Midia. The post-mortem established the cause of death as complications arising from 40 per cent total body surface area burns.
9. Scene of crime officers processed the scene and recovered burnt items, including a wheelchair, walking crutches and a walker. The accused fled after the incident but was arrested on 30<sup>th</sup> September 2022 after police received information that he had returned to the residence. Upon arrest, officers noted burn injuries on his hands and legs. He was later subjected to a mental assessment at Mathari Hospital on 17<sup>th</sup> October 2022 and was certified fit to stand trial.
10. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that, the accused's constitutional rights had not been violated during the negotiation process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.
11. In mitigation, Mr. Nyabina for the accused submitted that the convict is the biological son of the deceased and was living with her at the time of the offence. He had no previous criminal record. He struggled with alcohol abuse from a young age and had a history of substance and mental health challenges, including prior admission at Chiromo Mental Hospital. His late mother made sustained efforts to rehabilitate him. The family attributes the

offence to drug abuse and mental illness. His four siblings live in the USA, leaving him without local family support. He expressed deep remorse and regret and prayed for leniency.

12. Ms. Timoi for the prosecution opposed a non-custodial sentence, citing the brutality of the offence against a vulnerable 77-year-old victim. She submitted that the convict showed no genuine remorse. The siblings suffered severe psychological harm following the death. Despite some support for rehabilitation, the prosecution urged a custodial sentence due to the aggravating circumstances.
13. The pre-sentence report on record, indicates that the offender is a 44-year-old unmarried man with no dependants. He is the biological son and last-born of the deceased. At the time of the offence, he lived with his mother and was fully dependent on her for upkeep, having never been formally employed. He admitted to alcohol consumption and claimed he could not recall the events of the material day. He acknowledged the suffering caused and sought forgiveness, urging the court to impose a non-custodial sentence.
14. The family described the offender as previously calm and without prior criminal history. They reported profound emotional, psychological and financial distress following the loss of the deceased, who was the family's anchor. Their views on sentence were divided, with some calling for a short custodial term and others favouring a rehabilitative approach. The community expressed shock but did not oppose a non-custodial option.
15. The offender is now a total orphan with no immediate family support locally, all his siblings residing abroad. The offence is

attributed to mental health concerns and substance abuse. Notably, the offender demonstrates limited acceptance of responsibility despite the plea agreement reducing the charge to manslaughter.

16. The penal section for the offence of manslaughter is contained in section 205 of the Penal Code which provides: -

**Any person who commits the felony of manslaughter is liable to imprisonment for life.**

17. The court of Appeal in **Thomas Mwambu Wenyi v Republic (2017) eKLR** cited the decision of the Supreme Court of India in **Alistar Anthony Pereira v State of Maharashtra at paragraph 70-71** where the court held as follows on sentencing:

*“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The*

*court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence"*

18. I have considered the gravity of the offence, the principles of proportionality, deterrence and rehabilitation, together with the mitigation tendered and the views of the victim's family. Although the probation officer recommended a rehabilitative, non-custodial approach on account of the offender's mental health challenges and substance abuse, the facts disclose a brutal and sustained attack on a vulnerable elderly woman who birthed him aged 77 years, who was the offender's own mother and sole provider.
19. The deceased was stripped, dragged and pushed into a fire, by the accused sustaining extensive burns from which she later died. The manner of execution was not only cruel, but also degrading and was without any provocation. The horrific death of the deceased has caused profound emotional, psychological and financial harm to her family, who have lost their central pillar.
20. The court must mark the seriousness of the offence and affirm the sanctity of human life. While the offender's alcohol dependence, mental health history and plea agreement reducing the charge to manslaughter are relevant, they do not outweigh the extreme brutality of the act aggravated by the stripping of her mother violating her right to dignity under the Constitution. Further, the offender has demonstrated limited acceptance of responsibility.
21. A custodial sentence is therefore necessary both for punishment and deterrence, and to facilitate structured rehabilitation through mental health and substance abuse treatment within a controlled

environment. In balancing all factors, and taking into account the plea, I am satisfied that only a substantial custodial sentence will meet the ends of justice.

22. The accused Mathew Arianda Okongo is hereby sentenced to serve twenty-five (25) years imprisonment to run from 30<sup>th</sup> September 2022, the date of his arrest pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

**Judgement dated and delivered virtually this 26<sup>th</sup> day of November 2025**

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**D. KAVEDZA  
JUDGE**

**In the presence of:**

Ms. Maina for the Prosecution

Mr. Nyabira for Accused

Ms. Karimi Court Assistant.