

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MURANG'A
CRIMINAL DIVISION
CRIMINAL CASE NO. E019 OF 2023

REPUBLIC
.....PROSECUTION

VERSUS

ALEX MWAURA NJIRAINI.....
ACCUSED

RULING

1. This is a ruling on sentencing of the accused person *Alex Mwaura Njiraini* herein after he pleaded guilty of the offence of manslaughter following a plea bargain agreement entered between himself and the state. He was convicted of the offence of manslaughter before this court on 21st May 2025.
2. The matter was then listed for mitigation before this court on 15th October 2025. Counsel for the accused Mr. Kinyua made oral submissions on behalf of the accused. He stated that the accused is remorseful and has sought forgiveness from the victim family. That he is a young man aged 22 years and requires a second chance in life. That he has reformed and promises to be a law-abiding citizen. That he is a first offender and prays for a lenient sentence preferably a non-custodial sentence.
3. Counsel stated that the accused took plea on 30th August 2023 and was able to raise bond on 1st July 2024. That upon the adoption of plea bargain on 21st May 2025, he was remanded back in custody.

4. That during the accused's stay in custody, he has been able to contemplate about what happened, has received counseling and is remorseful about his action. He pleads with the court to grant him a lenient sentence as he intends to rejoin the society as an honest man.
5. This court also had the benefit of a pre-sentence report dated 6th August 2025 which was availed pursuant to the court directions. The report gives the accused's background as having been born in 2001, completed school in 2018 having scored grade D. that he worked as a casual laborer before taking a certificate course at Gating Technical Institute and had just completed his internship when the incident occurred.
6. The report captures the incident as having taken place while the accused was drunk and the victim was annoyed with his behavior. That the argument was that the accused wanted to go home while the victim wanted to continue playing pool. That the accused hit the deceased with a blunt object on the heat of the moment, is remorseful equally mourns the death of his friend. He pleads for forgiveness of both court and the victim's family.
7. The community on the other hand confirms that both accused and the victim were mechanics and drunkards. That on the material day the two were involved in a drunken brawl leading to the death of the deceased. According to the report, the community was still hostile to the accused and releasing him back would ignite painful emotions.
8. The report recommends that the accused be given a lenient sentence preferably a non-custodial sentence to enable him reintegrate and to be involved in a rehabilitation program.

9. I have carefully considered the accused's mitigation alongside the presentence report. The duty of this court is to balance the rights of the accused with the interest of justice and the accused's family. This court takes into the account the gravity of the offence and the circumstances obtaining thereto.
10. The penalty for the offence of manslaughter is a maximum of life imprisonment as specified under **section 205 of the Penal Code**. Notably the sentence may vary from a few years to life considering the circumstances of the crime, circumstances of the offender and other mitigating factors.
11. Sentencing in Kenya is guided by the Constitution, statutes, policy guidelines and case law. The Judiciary Sentencing Policy Guidelines are silent on manslaughter hence the best path to take is case law.
12. The discretion on sentencing lies with the Judge especially in the case of manslaughter where the lower limit is determined by various factors which only the trial court has the opportunity to appreciate. In determining the sentence for the accused, I will make reliance on the case of **R v Moses Mbithi Muya High Court Machakos NO.6 of 2019** where Judge Kemei stated that:

“The discretion of sentencing rests with the trial judge because he or she has the opportunity to watch the case proceeding before him or her and detect the accused and witnesses' behavior. The discretion must however be exercised judiciously. In the persuasive Nigerian case of African Continents Bank V Nuamani [1991] NWLI (parti86)486, it was observed that,

"The exercise of court's discretion is said to be judicial if the judge invokes the power in his capacity as a

judge qua law. An exercise of discretionary power will be said to be judicial, if the power is exercised in accordance with the enabling statutes, discretionary power is said to be judicious if it arises or conveys the intellectual wisdom or prudent intellectual capacity of the judge. The exercise must be based on a sound and sensible judgment with a view to doing justice to the parties. "

13. I have taken into account the accused's mitigation, pre-sentence report and the entire circumstances of the case. It is noteworthy that the offence was committed during a period when the accused was presumed to be drunk. I have also noted that the accused is a first offender as no records have been availed by the prosecution. He was relatively young and is now 24 years old. Both the victim's family and the Community are sympathetic to the accused's predicament. The pre-sentence report indicates that the accused is still traumatized by the incident and that a non-custodial sentence will help him heal.
14. In view of the foregoing, I am of the view that the accused ought to be accorded an opportunity to reform, rehabilitation being one of the objectives of sentencing under the Judiciary Sentencing Policy Guidelines, 2023, and as a consequence, I will give him a suitable sentence to accord him a second opportunity in life.
15. ***Subsequently, I hereby sentence the accused to three (3) years' probation subject to the Probation Director Murang'a provides a report on the subject's area and supervision not later than 20th November 2025. Accused to serve on Probation under the Supervision of Principal Probation Officer, Murang'a County Office.***

**DATED, SIGNED AND DELIVERED in OPEN COURT ON 20TH
NOVEMBER, 2025.**

**HON. T. W. Ouya
JUDGE**

**For Accused...Alex Mwaura
Prosecution.....Ms Nzuki
COURT ASSISTANT.....BRIAN**

ORIGINAL