

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ISIOLO
CRIMINAL CASE NUMBER E007 OF 2024

REPUBLIC

.... PROSECUTION

VERSUS

TYSON MWIRIGI alias

GIDIACCUSED

RULING

1. The accused herein was initially charged with the offence of Murder Contrary to the Section 203 section 204 of the Penal Code. Following a Plea Bargain, the offence was reduced to Manslaughter contrary to Section 202 as read with section 205 of the Penal code, and the Accused was convicted of latter charge at his own admission of guilt.
2. Through his advocate, the accused told the court that he is remorseful, that he is still a young person of 23 years, and thus there is a chance of reform. On the circumstances of the incident, he states that the killing was preceded by a fight and he arrived on the scene when fighting was going on. He further stated that he had pleaded guilty within the earliest time possible. That he has been in custody for the last two (2 years. He further stated that he was a high School- student at the time of the incident and he prays to be given a chance to realize his dreams.
3. The prosecution opted not to make any submissions.

4. I have considered the accused's submission and the Probation Report that was done at the request of the Court. There was no evidence that the accused is a repeat offender and therefore the court will treat him as a first-offender. He is also remorseful. Remorse and being a first offender, are mitigating factors. Pleading guilty on his own accord at the earliest opportunity is also a mitigating factor.
5. However, on the *guilty plea* the record of proceedings shows that the accused only did so after the case had been in court for two years. Thus, it cannot be strictly said to have pleaded guilty, at the earliest.
6. I have also considered the circumstances of the offence. It is common ground that the killing was preceded by a fight between the deceased on one hand, and the accused and his brother, on the other hand. Although the accused in his mitigation stated that he found the fight on, this contradicts the facts as read to the court by the prosecutor, and which he admitted to. According to the facts read to him, he was the first one on the scene before he was joined by his brother, who is reported to be still at large. It also emerged from the facts that there were previous acts of violence prior to the date of the incident, directed to the deceased and his mother by the Accused and his brother.
7. Further the facts as read out by the prosecutor indicate that the accused fled after the incident, and was only arrested two years later. This fact was not

contested. The circumstances following the killing therefore waters down his plea of remorse.

8. I have also looked at the Post Mortem Report (PExb 2). The stabbing was aimed at the left side of the chest, the location of a major organ of the body, namely, the heart. The targeting of such a vital organ was instructive; the aim was meant to kill, not to overpower the deceased.
9. The circumstances surrounding the stabbing and those occurring after the attack on the deceased aggravated the Accused's crime.
10. Finally, it must not be lost to this court that a life was lost. The sentence to be meted out must speak to the sanctity of human life.
11. Considering the aforesaid mitigating and aggravating factors, I hereby sentence the accused to 12 years imprisonment. The sentence is deemed to have taken effect from 18.05.2023 being the date when the accused was arrested.
12. The Accused has a right of Appeal on sentence only, within the next 14 days.

Dated signed and delivered at Isiolo, this 3rd day of December 2025.

S. Chirchir

Judge.

In the presence of:

Roba Katelo - court Assistant

The Accused.

Mr. Ngetich - for the state
Mr Njindo for the Accused.

ORIGINAL