

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL CASE NO. E030 OF 2021

REPUBLIC..

.....PROSECUTOR

VERSUS

PAUL OTIENO OKOTH.....ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of *manslaughter* under a plea agreement recorded on 16th July 2025.
2. On 31st March 2021 at around 2130 hours, *Henry Mburu Njeri* (hereafter *the deceased*) decided to visit his ex-girlfriend, *Caroline Mutinda Makau*, at Kwa Mberia apartments within Pipeline Kware area in Embakasi Sub-County, Nairobi. He was drunk and started to quarrel Caroline on why she deserted him. Caroline asked him to take his belongings and leave.
3. An altercation ensued in which the deceased head-butted Caroline who screamed for help. A group of neighbours then attacked the deceased. He was bloodied but fought back even as he was led out of the premises. Among the persons he attacked was *Stanley Omondi*, a brother of the accused.
4. The accused then joined the fight ostensibly to defend his brother,

Omondi. He used a dagger to stab the deceased on the neck who staggered and fell down about 10 metres away. The accused also issued threats to anyone else who tried to assist the deceased.

5. After the incident, the accused and his brother took cover in their flats and locked the gate. As they retreated, they dropped the cover of the dagger at the gate and were heard arguing with each other. The accused later hid in an incomplete building and travelled to Machakos the following day to meet with his girlfriend.
6. It took the efforts of his pastor, *Wickliffe Samba*, to convince him to surrender to the nearest Police Station at Emali. He was re-arrested from there by police officers from DCI Embakasi and charged with murder. He was found fit to plead as per the medical report dated 27th April 2021 (exhibit 3).
7. From the post mortem examination conducted by *Dr. Peter Ndegwa*, the cause of death was “*exsanguination due to neck injuries as a result of sharp force trauma*”. I find that the autopsy report (exhibit 1) is consistent with the facts read out at the trial and now fully admitted by the accused.
8. Learned prosecution counsel, *Ms. M. Kigira*, confirmed that the accused is a first offender. She however sought a deterrent sentence

taking into account the gravity of the offence and other aggravating circumstances.

9. There is then the *mitigation* tendered on behalf of the accused by his learned counsel, *Mr. Kaveke Mwanja*. He regretted the death of the deceased but emphasized that it occurred in the course of a scuffle as the accused defended his brother who was being assaulted by the deceased. He argued that the accused had no intention to kill the deceased and is truly remorseful.
10. Learned counsel submitted that the accused is a strong Christian and has reformed during the four years in custody. He thus prayed for a non-custodial sentence to enable him to rejoin the society and achieve his aspirations in life. In a synopsis, it was a plea to temper justice with mercy.
11. I have then perused the *pre-sentencing report* dated 17th September 2025 under the hand of *Mr. Albert Jaoko*, Probation Officer, Nairobi. He recommends a non-custodial sentence. He states that *“the offender regrets what has befallen him, he did not have malice, the court to mete out an appropriate sentence.....appropriate measures as cited above will be instituted to address the identified risks and criminogenic needs”*.

12. On the other hand, is the victim's family. They are still hurting and not ready for any reconciliation with the offender or his family. They emphasize that the deceased was killed "*in cold blood*". From the social report, he was only 23 years and employed as a care taker by a distant relative. His mother states that he was her only child and "*her financial pillar and hope for generational continuity*".
13. I have kept in mind that the accused is a first offender and now aged 33, single and has expressed genuine remorse. I have weighed it against the gravity of the offence and the lasting impact on the victim's family. The accused used a sharp dagger to cut the deceased's neck. The deployment of such lethal force negates the claims of lack of intent. This a major *aggravating* factor.
14. Sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by the *nature and gravity of crime*. Manslaughter is a grave felony and attracts a sentence of life imprisonment. Despite the elaborate mitigation, I find that justice of the case demands a substantial custodial sentence. It will be a lesson to the accused and afford him full opportunity for reform and anger management.

15. I accordingly sentence the accused to serve *ten (10) years* in jail.

In accordance with section 333 (2) of the **Criminal Procedure Code**, the sentence shall run from 2nd April 2021, the date when he was first arrested and placed in custody.

16. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but *only* on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED and **DELIVERED** at **NAIROBI** this 16th day of December 2025.

KANYI KIMONDO
JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. Kaveke for the accused instructed by Kaveke Mwanja Advocate.

Mr. E. Ombuna, Court Assistant.