

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KIAMBU
CRIMINAL CASE NO. E044 OF 2021

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

VERSUS

**JULIUS NANDABA.....
ACCUSED**

RULING ON SENTENCE

1. The accused were initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; upon a Plea Bargain Agreement being entered this charge was then reduced to manslaughter.
2. The Plea Bargain Agreement dated 18/07/2025 was adopted by the Court upon being satisfied that the accused persons had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion of any kind.
3. The accused were charged with having unlawfully killed one **FELIX AKUSAI alias KEVIN OMUTU** on or about the 1st day of August, 2021 at around 8.00 pm at Mai-a-ihii Area in Kikuyu Sub-County within Kiambu County.

4. The facts as narrated by the Prosecuting Counsel are as follows; On the 1/08/2021 the deceased got to his residence at Mai-a-ihii. Both the deceased and the accused were Ugandan Nationals who had come to Kenya to look for gainful employment and both jointly contributed to their accommodation and utilities. On that fateful night the two met outside a shop near their residence where they had a conversation about the electricity bill and a fight ensued. The accused had a knife in his hand and stabbed the deceased in the stomach. The neighbours managed to separate them and the deceased who was bleeding profusely was rushed to Kikuyu PCEA Hospital and after first aid was administered he was transferred to Kiambu Level 5 Hospital where he unfortunately succumbed to his injuries whilst receiving treatment.
5. The accused was arrested on the same night and he was taken for treatment at Kikuyu PCEA Hospital he also reported his injuries and was issued with a P3 Form which was produced into Court and marked as **'PExb.2'**. The Report indicated that he had a human bite on his right shoulder. The knife used in injuring the deceased was recovered and this

weapon and items of clothing were on 20/08/2021 taken to the Government Chemist together with an Exhibit Memo which was produced into court and marked as '**PExb.3**'.

6. On 16/08/2021 a post-mortem was conducted and the cause of death was established to be from severe haemorrhage due to perforated abdominal injuries. The Post Mortem Report was produced into court and was marked as '**PExh.1**'.
7. The accused stated that the facts as narrated were true and correct and the Court proceeded to convict him on his own plea of '**Guilty**' for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code.
8. The accused was represented by Learned Counsel Mr. Mweisigwa the accused whereas Mr. Gacharia was the Prosecuting Counsel for the State; They were invited to make submissions before sentencing; The accused's Counsel opted to make oral mitigation submissions whilst Prosecuting Counsel for the State requested that a Pre-Sentencing Report be prepared to incorporate the views of the victim's family and to assist the Court in passing an appropriate sentence.

9. Counsel for the accused submitted that he wished to adopt the guidelines given in the renowned Muruatetu Case; The first being the age of the convict who was aged 34 years of age and he was at his prime and able to provide for himself and his family; secondly, the accused had never been in conflict with the law and had no prior convictions and prayed that he be treated as a first offender; This being the case he was not deserving of the maximum sentence which if rendered would amount to a harsh and excessive sentence being imposed;
10. He had willingly accepted responsibility for his actions that led to a loss of a life and by pleading guilty to the manslaughter charges he had saved on the Courts time and conserved judicial time and resources; he had also spared the victims' family the agony of testifying.
11. He pleaded for leniency as the circumstances leading to the demise of the deceased were not pre-meditated. And on that fateful night, he was arrested whilst taking the deceased to the hospital and had also contributed to the settling of the medical bills.

12. Whilst in remand he had time to reflect on his anger management and his actions which led to an unfortunate situation whereby a life was lost; He pleaded for leniency and prayed for a lenient sentence and urged the Court to consider the time spent in custody.
13. Prosecuting Counsel relied on the Pre-Sentencing Report and submitted that it be utilized to assist in the Court when passing sentencing.

ANALYSIS

14. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows;

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

15. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are the accused's choice of weapon which was a knife which he used to inflict the fatal injuries; The accused's anger management and failure to exercise restraint and taking the law into his own hands which led to a life being lost; The mitigating factors are that the circumstances

- leading to the unfortunate incident demonstrate that the accused had no premeditated intention; by accepting the Plea Bargain Agreement the accused had not wasted judicial time and spared the victims' family from further trauma;
16. The accused is fairly young man being aged 34 years; the prosecution had no previous records and it was submitted that he be treated as a first offender;
 17. In the light of the above, this Court is satisfied the accused is best suited to serve a custodial sentence to enable him to continue reflecting on the offence committed and attend counselling for anger management; the appropriate sentence is found to be that of **Ten (10) years** for the accused person.
 18. The Court is satisfied that the accused is deserving of the benefits of **Section 333(2)** of the Criminal Procedure Code and the period spent in remand from the date of his arrest 1/08/2021 be deducted from the sentence.

FINDINGS & DETERMINATIONS

19. Having taken all factors into consideration this Court makes the following findings and determinations: -

- (i) The accused is hereby convicted on his own plea of guilty for the offence of Manslaughter;
- (ii) The accused is hereby sentenced to a custodial sentence of **Ten (10) years.**
- (iii) The period spent in remand from the date of arrest on 6/08/2021 be deducted from the sentence.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU
THIS 5TH DAY OF DECEMBER, 2025.**

**A. MSHILA
JUDGE**

In the presence of:

Sanja - Court Assistant

Imran h/b for Gacharia - Prosecuting Counsel for the State

Mwesigwa - for the Accused

Accused - present in Court in custody