

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO. E004 OF 2025

STATE.....PROSECUTION

VERSUS

TIMOTHY KIBAKI OMBEO.....ACCUSED

SENTENCING

1. The offender herein was initially charged with murder contrary to Section 203 as read with 204 of the penal code. He later entered into a plea bargain agreement with the State and the charges were reduced to manslaughter contrary to Section 202 as read with 205 of the penal code. He pleaded guilty to manslaughter and he was accordingly convicted.

2.This case is now coming up for sentencing. The court called for a pre-sentence report from the probation and it has emerged from the same that the convict is a son of the deceased. He was called by and informed that deceased who is his father was assaulting his mother. He ran to the scene and found deceased hurling stones at his mother and he and his brother gave him a chase and hit him with sticks. Post mortem revealed left temporal /right temporal Sublegal hematoma. He later succumbed to the said injuries. The toxicology report indicates that the lung has features suggestive of necrotizing granulomatous inflammation most likely due to tuberculosis. ZN does not exclude tuberculosis. on the brain there was brain Benign tissue negative ZN does not exclude tuberculosis.

3.The report indicates the offender is a young man aged 22 still single. The family has forgiven him and is ready to receive him back home. The community also has no problem with him as they have since forgiven him

4. Defence Counsel submitted that he is a first offender, remorseful and a young man who ought to be given a 2nd chance. Also, that it has emerged deceased was a violent man. The offender entered into a plea bargain agreement voluntarily and so he prayed for leniency.

5. The Supreme Court in the Muruatetu case set down the following factors to be considered in sentencing in murder trials;

- a) Age of the offender.
- b) Being a first offender.
- c) Whether the offender pleaded guilty.
- d) Character and record of the offender.
- e) Commission of the offence in response to gender-based violence.
- f) Remorsefulness of the offender.
- g) The possibility of reform and social re-adaptation of the offender.
- h) Any other factor that the court considers relevant.

6. I have considered the age of the offender, nature of the offence, its circumstances, the pre-sentence report, mitigation, the remand period, the fact that he is remorseful and the sentiments of community. I agree with defence counsel that the offender deserves leniency for entering into a plea bargain agreement and saving the precious judicial time of the court which expedited the determination of the case. It is clear that the offender cut short the life of his father while allegedly trying to save his mother. The pre-sentence report recommends a non custodial sentence. Though the report recommends a non-custodial sentence an innocent life was lost and this court takes judicial notice that there is an emerging trend within the Jurisdiction of this court of young men assaulting their parents to death. The offender here cannot rely on defence

of mother as he was informed that deceased was assaulting his mother and went to the scene and chased the deceased and attacked the deceased him. Deceased was a known sickling as per the pre-sentence report. The offender had no right to attack him as he did as nothing would have stopped him from restraining the offender without use of force. I find that a non- custodial sentence is not appropriate in this case. A custodial sentence would serve the purposes of deterrence and rehabilitation of the offender. I proceed to sentence the offender to 6 years imprisonment The same shall run from 30.1.125 when he was first remanded in custody till completion.

14 days Right of appeal.

T.A ODERA

JUDGE

17.12. 25

Delivered Virtually in the Presence of: -

Offender

Counsel Mr. Otieno

Mr. Koima for State

Court Assistant- Mr. Matiko