

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL CASE NO. E066 OF 2022

REPUBLIC.....PROSECUTOR

VERSUS

SETRICK NADWA MUSIMBI *alias* SETO.....ACCUSED

SENTENCE

1. The accused was adjudged *guilty* of the offence of *manslaughter* contrary to section 202 as read together with section 205 of the **Penal Code**.
2. The circumstances surrounding the offence are detailed in the judgment delivered on 7th October 2025. In summary, a rancorous brawl erupted between two rival matatu groups of *Aldana Sacco* and *Eastleigh Sacco* over the management of the stage at the OTC area on Racecourse Road. In the course of the scuffle, the accused stabbed the deceased with a sharp knife causing his death.
3. Learned prosecution counsel, *Ms. M. Kigira*, confirmed that the accused is a first offender. She however sought a deterrent sentence owing to the nature and circumstances of the offence; that the accused does not seem remorseful, and that there is a real risk of recidivism.

4. There is then the *mitigation* tendered on behalf of the offender by his learned counsel, *Mr. V. Olala*. He regretted the death of the deceased but emphasized that it occurred in the course of a scuffle. He argued that the accused had no intention to kill the deceased, never fled the *locus in quo* and is truly remorseful. Additionally, the offender has followed prison regulations and undertaken rehabilitation courses. He thus prayed for a non-custodial sentence to enable him to rejoin the society and take care of his mother and two young children. In a synopsis, it was a plea to temper justice with mercy.
5. I have then perused the *pre-sentencing report* filed on 4th December 2025 under the hand of *Ms. Margaret Aduol*, Probation Officer, Nairobi. She does not recommend a non-custodial sentence.
6. I have also taken into account the views of the victim's family. The deceased was married and left behind a child aged six now under the care of the maternal grandmother. They stated that neither the accused nor his family approached them for reconciliation. They are "*apprehensive of the offender being granted a lenient sentence saying their lives will be in danger as he is likely to revenge on them and everyone involved in the trial process*".

7. I have kept in mind that the accused is a first offender and now aged 33 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 grabbed a sharp knife from an egg trolley and fatally stabbed the deceased. This a major *aggravating* factor.
8. 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 custodial sentence which will afford the offender a full opportunity for reform.
9. 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 26th September 2022, the date when he was first arrested and placed in custody.
10. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the proceedings, judgment and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED and **DELIVERED** at **NAIROBI** this 19th day of January

2026.

KANYI KIMONDO
JUDGE

Sentence read virtually on *Microsoft Teams* in the presence of-

Accused.

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

Mr. V. Olala for the accused instructed by Kipchirchir & Associates Advocates.

Mr. E. Ombuna, Court Assistant.

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