

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL CASE NO E036 OF 2024

REPUBLIC.....

.....PROSECUTOR

AND

NAHASHON KAFARA WAMBUGU.....

ACCUSED

SENTENCE RULING

1. The accused was initially charged with the offence of Murder, contrary to section 203 as read with section 204 of the Penal Code.
2. Subsequently he entered into a plea agreement which was accepted by the court. The charge was then reduced to manslaughter, contrary to section 202 as read with section 205 of the Penal Code. The accused pleaded guilty to the same and he has been convicted on the said offence.
3. The court ordered for a pre-sentence report, which I have perused.

4. In her submissions on sentence, the Prosecuting Counsel noted that although there is evidence that this was an affray, the accused used excessive force against the deceased.
5. Counsel representing the accused pleaded for leniency asking the court to even consider a non-custodial sentence. It was submitted that the accused reacted he was hit by the deceased. That the accused did not intend to kill the deceased.
6. It is well settled law that sentencing is at the discretion of the trial court.
7. The primary aim of sentencing is to ensure that an accused person receives a sentence that is appropriate, taking all relevant factors into consideration.
8. Any person found guilty of the offence of manslaughter is liable to life imprisonment, as prescribed under section 205 of the Penal Code.
9. In passing sentence, the court has to look at the aggravating factors and the mitigating factors, which have come out in the evidence, mitigation and in the pre-sentence report.

10. Ultimately, the court needs to strike a delicate balance between delivering a just penalty and where applicable, offer the possibility of reform for the convicted individual. (See **Francis Karioko Muruatetu & Another vs Republic (2017) eKLR**)
11. From the facts of the case, the accused and the deceased had an altercation of some kind. Each went to report the other at the police station. After that they met and according to witnesses who were at the scene, the accused took a piece of timber and hit the deceased on the head. The accused attempted to flee but he was apprehended. The deceased was rushed to hospital but he succumbed to his injuries while undergoing treatment.
12. The cause of death was established to be severe head injury with fracture of the cervical bone. This is a clear indication of the excessive force meted on the deceased, as was pointed out by the Prosecution Counsel. The accused had an option of walking away at that particular moment. His action resulted in the needless loss of life of the deceased.

13. After evaluating all the circumstances surrounding the case, I hereby sentence the accused to **seven (7)** years imprisonment.
14. Under section 333(2) of the Criminal Procedure Code (C.P.C.) the sentence will be deemed to have commenced on 27th June 2024, when the accused was first remanded in custody.
15. Right of Appeal is explained.

**Signed, dated and delivered at Meru this 22nd day of
January, 2026.**

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H.M. NYAGA
JUDGE

