



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYANDARUA**  
**CRIMINAL CASE NO. E006 OF 2025**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**PETER NJOROGE MWANGI.....ACCUSED**

**JUDGMENT**

1. Peter Njoroge Mwangi is charged with an offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the 24<sup>th</sup> day of July 2022, at Geta village, Wanjohi location, in Kipipiri Sub-County of Nyandarua County, Gerald Gikonyo Njambuya.
3. The prosecution argued that the accused transported the deceased and, upon arriving at the destination, beat him for undisclosed reasons. The deceased later died.
4. In his defence, the accused conceded that he ferried the deceased, but denied that he assaulted him.
5. The issues to be determined are:
  - a) Whether the accused inflicted the fatal injuries on the deceased; and
  - b) Whether the offence of murder was established against the accused.
6. Johana Kanyanchwa (PW1) is the owner of the motorcycle the accused used to ferry the deceased to a place known as Riverside. He stated that when he visited a barbershop for a haircut, he left his motorcycle, including its ignition key, at the bus stop. The accused later took some money from him that he had charged to a client and left. Later, enquiries we made about the rider who was said to have assaulted a client. He saw the accused about 1 year later. The evidence that the accused rode PW1's motorcycle to ferry a passenger was supported by Francis Waititu Mutungu (PW2).

7. Bonface Munyaka (PW3), a 13-year-old, was at Riverside, where his mother works as a tailor. He testified that the accused and the deceased arrived on a motorbike, and they argued. During the fight, the accused knocked the deceased to the ground, assaulted him, and then left. He also mentioned that the passenger seemed intoxicated.
8. When a post-mortem was conducted on the body of the deceased, the findings were that the cause of his death was a closed head injury secondary to blunt force.
9. Although the accused denied any involvement in the death, the record shows overwhelming evidence that he caused the fatal injuries to the deceased.
10. The prosecution must establish the presence of malice aforethought to secure a conviction for the offence of murder. In **Black's Law Dictionary, 10th Edition**, malice aforethought is defined as:

*The requisite mental state for common-law murder, encompassing any one of the following (1) the intent to kill (2) the intent to inflict grievous bodily harm (3) extremely reckless difference to the value of human life (the so-called "abandoned and malignant heart"), or (4) the intent to commit a dangerous felony (which leads to culpability under the felony-murder rule).*

11. Section 206 of the Penal Code gives instances when malice aforethought may be proved. It provides:

*Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—*

*(a) an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;*

*(b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;*

*(c) an intent to commit a felony;*

*(d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.*

12. Although PW3 testified about a quarrel between the accused and the deceased, he could not determine how the quarrel began or who was the aggressor.

13. Based on the analysis of the evidence, I conclude that the prosecution has not proven the accused guilty of murder. However, they have proven the lesser charge of manslaughter beyond a reasonable doubt. Accordingly, I reduce the charge from murder to manslaughter. The accused is acquitted of murder but found guilty and convicted of manslaughter under Section 202 read with Section 205 of the Penal Code.

**Delivered and signed at Nyandarua, this 19<sup>th</sup> day of February 2026**

**KIARIE WAWERU KIARIE  
JUDGE**