

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYAHURURU**

**CRIMINAL CASE NO. E009 OF 2025**

**REPUBLIC.....ODPP**

**VERSUS**

**CHARLES                      MWANGI                      NDERITU.....**  
**.....ACCUSED**

**RULING ON SENTENCE**

- 1. Charles Mwangi Nderitu**, the Accused, was arraigned following allegations of having murdered Paul Njuguna Nderitu (Deceased). He denied having committed the offence. Later with the intervention of his family, his legal representative initiated plea-bargain pursuant to **Section 137C of the Criminal Procedure Code**.
- The plea negotiations for the Accused to enter into an agreement were concluded and the plea agreement was executed by both prosecutor and the Accused person. In the result the information was reduced from murder to **Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code**.
- Facts of the case were that on the fateful date, the deceased was in his house when he heard noise emanating from his mother's house. Ongoing outside, he noted that his younger brother, the Accused herein was the one chasing their mother while armed with a panga and spear. The deceased

attempted to intervene only to be stabbed with the spear. The matter was reported to the police, Rumuruti, who moved to the scene and found the Accused having been arrested by members of public. The lifeless body of the deceased was moved to Oljabet Mortuary for preservation.

4. The postmortem was conducted on the body of the deceased and it was established that the deceased was stabbed on the right side of the chest as there was a penetrating wound on right side of the chest at the anterior 5<sup>th</sup> intercostal space and also multiple defence bruises on the right side of the forearm. The cause of death was asphyxia secondary to penetrating right lung injury.
5. The accused was subjected to psychiatric examination and found to have no mental illness.
6. To get the overview of the Accused's background and the circumstances of the offence including the views of the secondary victims and the community at large, the court directed filing of the pre-sentence and victim impact statement reports. The Accused and deceased were half-brothers. Their mother was in a marriage that was blessed with seven children and after the demise of her husband she remarried and gave birth to five(5) more children. The deceased being the last born of her first husband while the Accused is the last born of her second husband.
7. The deceased's wife and children have severed relationship with the family. The Accused's wife and children left him. He partakes alcohol, and uses bhang, miraa and cigarettes.

The Accused pleads for forgiveness noting that the entire family has forgiven him.

8. There was animosity from the community but now are in agreement with the family that has reconciled hence not objecting to the Accused serving sentence within the community.
9. Victim impact statements were filed. The nuclear family of the deceased consisting of his wife Beth Wanjiru, and two(2) sons, Moses Kamau (26 years old) and John Karanja (21 years old) were pained by the death of the deceased but have forgiven the Accused, and so have opted to leave his fate to the court.
10. The mother of the Accused and primary victim seeks leniency on behalf of the Accused. Her health is stated to have deteriorated due to the psychological effect of the matter.
11. In mitigation it is stated by counsel for the Accused, Ms. Mureithi that the Accused is remorseful and regrets what happened and the family have reconciled. That the mother does not want to lose another child in remand. She called upon the court to consider time spent in custody by the Accused and grant him a non-custodial sentence.
12. Ms. Mumbe, Prosecution Counsel relied on the pre-sentence report and the victims' impact statement filed.
13. **Section 205 of the Penal Code** provides that;  
***Any person who commits the felony of manslaughter is liable to imprisonment for life.***

**14.** To determine the appropriate sentence for the Accused, the sentence I come up with must serve some purpose. In **Ambani v Republic [1990] KLR** it was stated that;

***“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blame worthiness of the offender and that it is thus not proper exercise of discretion in sentencing for the court to fail to look at the facts and circumstances of the case in their entirety before sentencing for any given sentence.”***

**15.** The punishment to be meted out must be proportionate to the crime committed. The offence herein is condemned by the society. An offender not only wrongs the primary and secondary victims but also the society, that is why such an offender is incarcerated to ensure he is rehabilitated.

**16.** The family of the Accused have forgiven him. The nuclear family of the deceased have expressed how painful the act committed was and the pain the Accused caused them though they say they have forgiven him, and qualifies their feelings by stating that they have left it to the court to determine his destiny.

**17.** The Accused must be assisted so that he does not re-offend he should be assisted so that he becomes a responsible person in the society. His family has promised to have him relocate to Nairobi where he will stay with his brother. but, they have not proposed any possibility of

impacting any possible skills upon him that will help in reintegration into the community.

**18.** The Accused has been in remand custody since September 2022 but this court did not get any report of restoration suggesting any possible psychological change that would reduce the possibility of the Accused not re-opening. For this reason, there is need for gradual reintegration which should be administered by prison services at the outset which is known to have shifted from purely positive incarceration. This will be followed by probation supervision.

**19.** For those reasons, I sentence the Accused to 10 years imprisonment with effect from the date of arraignment, 26<sup>th</sup> January, 2022, and upon release, he will be under probation supervision for a period of three(3) years.

**20.** It is so ordered.

**Dated, signed and delivered virtually this 16<sup>th</sup> day of February, 2026.**

.....

**L.N. MUTENDE**

**JUDGE**