

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
(CORAM: R. MWONGO, J.)
CRIMINAL CASE NO. E019 OF 2025

REPUBLICPROSECUTION

VERSUS

PETER MWANGANGI MUASA.....ACCUSED

JUDGMENT ON SENTENCING

The Charge

1. The accused was charged with murder contrary to Section 203 as read together with Section 204 of the Penal Code. The particulars of the offence are that on 22nd May 2025 at Wakalia village, Wachoro location, Karaba location, Mwea Karaba subcounty within Embu County, the accused murdered David Muasa Mwangangi.
2. The accused pleaded not guilty and the plea was duly entered.

Plea-Bargaining Agreement (PBA)

3. At the point of pretrial, the parties entered into a Plea-Bargaining Agreement dated 02nd October 2025 signed by the accused, his advocate and the prosecuting counsel. The accused pleaded guilty to the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code. The PBA was availed in court together with court's compliance form for recording the plea agreement and the deceased's post-mortem report dated 27th May 2025.
4. The court was satisfied that the accused person understood his rights identified under section 137F of the Criminal Procedure Code. Consequently, the Plea Agreement was adopted as part of the court record.
5. Accordingly, the accused person was convicted of the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. Under Section 205 of the Penal Code, the punishment for Manslaughter is imprisonment for life.

Mitigation

6. In mitigation, the accused expressed remorse for his actions that led to the death of the deceased. He admitted that his relationship with the deceased was strained over the years and that on the night of the incident, the deceased was the aggressor. He

prayed for a non-custodial sentence because is a 40-year-old breadwinner of his family and caregiver to his sick and elderly mother.

Response to Mitigation

7. In response to the mitigation, the prosecution stated that the deceased was the father of the accused and that the two had a long-standing disagreement. That the deceased had accosted the accused at a maize plantation earlier that day, and the accused went into hiding. When it started raining, the accused was forced to return to his house and when the deceased learned that he was back, he accosted the accused again and tried to shoot him with an arrow but he missed.
8. The accused attacked the deceased and then fled the scene. Similar to the presentence report, the prosecution has recommended a hybrid sentence, namely a short custodial sentence and a non-custodial sentence afterwards, as a deterrence to the community. In the end, the prosecution left the issue of sentencing to the court's discretion. As for the family, the accused's mother has not expressed any hostility towards the accused.

The Probation Officer's Pre-Sentence Report (POR)

9. According to the Probation Officer's Report dated 19th November 2025, the accused apparently admits the offence which occurred while he was defending himself after being attacked by the deceased. Earlier, the deceased had removed the doors and windows of the accused's house and had publicly declared that he would kill him. The accused had been forced to move in with his sister and after sometime he started sleeping in the farm, fearing for his life. On the night of the incident, he was forced to sleep in his house which did not have doors and windows and the deceased came to attack him.
10. During the attack, the accused was forced to defend himself using a machete with which he was farming. Regardless, the accused regrets the offence. The accused's family prayed that the court hands the accused a lenient sentence given the history and circumstances of the case. They proposed a sentence of 4 years imprisonment followed by 3 years non-custodial sentence. The community and local administration rehashed the hostility of the deceased towards the accused over the years. They noted that the deceased adamantly refused any interventions to resolve their difference. The POR recommended a custodial sentence of 4 years followed by a non-custodial sentence of 3 years.

Summary of the Facts

11. The agreed facts of the case as summarized by the prosecution, are as follows:

- a) On the 22nd May, 2025, at around 8:00 pm, the accused person went to his house where he shared a compound with the deceased, who was his father. He was to pick his mattress so he could sleep outside at his farm as the deceased had earlier threatened to kill him if he did not leave his home following a disagreement that the two had.
- b) At around 11:00 pm, it began to rain in the farm, so the accused person picked his mattress and went to sleep in his house. As the accused person was sleeping he saw a spotlight being illuminated on him and he also switched his spotlight on and saw the deceased aiming at him with an arrow. The deceased shot the arrow at the accused person but it missed him. The accused person then took a panga which was in his house and advanced towards the deceased and cut him on the neck and head. The deceased then fell down bleeding profusely. The accused person then wrapped the deceased in a gunny bag and took the deceased to his house and placed his body under the bed together with the missed arrow and went away after locking the house.
- c) The accused person then called his sister, one Margaret Katwii, using the deceased's phone and informed her on what had transpired. He then fled. A village elder, one Zacharia Kinyungu Lazaro, was notified of the incident and he notified the Chief who sought permission from the police to break the door of the deceased's house. Upon being granted permission, the village elder and members of Nyumba Kumi broke the padlock of the deceased's house, gained entry and found a gunny bag with the deceased's body stuffed inside. The Chief then called police officers from DCI, Mwea Karaba who came and took over the scene, processed it and took the deceased's body to Embu Level V Hospital awaiting Post Mortem.
- d) On 28th May, 2025, at Embu Level V Hospital in the presence of John Wambua and Margaret Katwii who identified the body of the deceased, the Post Mortem was conducted by Dr. Job Mwaniki who upon examining the deceased's body formed the opinion that the deceased

died as a result of hypovolemic shock secondary to multiple cut wounds to the neck due to assault.

- e) On 21st June, 2024, the accused person was spotted by members of the public at Mumbuni area. He was arrested by the OCPP, Mumbuni Police Post and handed over to the DCIO, Mwea Karaba. Upon being mentally examined, the accused person was found fit to stand trial and was then charged with the offence of Murder, which has now been reduced to Manslaughter.

Analysis and Determination

12. The court in this matter is guided by the provisions of the Judiciary Sentencing Policy Guidelines 2023. These were amended on direction of the Supreme Court in the case of ***Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR)***.
13. Under Section 205 of the Penal Code, the accused is liable to face a punishment of life imprisonment. In April 2025, the Supreme Court held that the life imprisonment sentence is lawful and applicable. This was the finding in the cases of ***Republic v Ayako (Petition E002 of 2024) [2025] KESC 20 (KLR) (Ayako case)*** and ***Republic v Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (Manyeso case)*** where it was held that only Parliament has power to revise a sentence prescribed under statute.
14. In this case, the court can exercise its discretion given the circumstances. The prosecution has recommended a hybrid sentence: 4 years imprisonment followed by 3 years of non-custodial sentence. The accused has prayed for leniency. The accused is the son of the deceased. Notably, the family of the accused and the deceased is the same and they hope that a lenient sentence will be meted against the accused. The deceased was the obvious aggressor and his aggression towards the accused was witnessed by his family, members of the community, the local administration and the police. Efforts had been made over the years to reconcile the accused and the deceased but none bore fruit.
15. It is now clear to the court that the deceased was determined to kill the accused at some point in time. According to the POR, the family of the accused and deceased lived with the conscious ever-present apprehension that one of them would kill the

other. They prepared for that fateful day because of the acts of the deceased towards the accused.

Disposition

16. In the end, and taking all the foregoing matters into account, I sentence the accused to a term of 3 years imprisonment followed by an order of CSO for 3 years. The custodial sentence, shall run from the date of conviction, and the time spent in custody shall be considered and deducted from the 3-year imprisonment sentence term.

17. Orders accordingly.

Delivered, dated and signed at Embu High Court this 11th day of February, 2026.

**R. MWONGO
JUDGE**

Delivered in the presence of:

1. Accused Present in Court
2. Ms. Mwaniki for the State
3. Mwinja for Accused
4. Francis Munyao - Court Assistant

