



**Republic v Nyutu (Criminal Case 23 of 2022)
[2026] KEHC 2787 (KLR) (5 March 2026) (Sentence)**

Neutral citation: [2026] KEHC 2787 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 23 OF 2022**

TW OUYA, J

MARCH 5, 2026

BETWEEN

REPUBLIC PROSECUTOR

AND

NICHOLAS MWANGI NYUTU ACCUSED

SENTENCE

1. The Accused was charged and pleaded Not Guilty to the offence of murder contrary to section 203 as read with 204 of the Penal Code. Particulars were that on the night of 3rd to 4th September 2022 at Githuya Village, Mumbu Sub-Location in Murang'a County, the Accused caused the death of Joseph Ndung'u Mubangi.
2. Subsequently, the parties having executed the Plea-Bargain Agreement dated 20th May 2024 informed the court that they were ready to proceed with plea-taking as the accused intended to plead to a lesser charge of Manslaughter.
3. The accused was represented by Ms. Githinji while the prosecution was led by Counsel P. Mwangi. Plea was taken on 27th October 2025 when the accused pleaded guilty to the offence of Manslaughter contrary to section 202 as read together with section 205 of the Penal Code and pleaded guilty to the charge after fresh charges and particulars were read out to him. Facts were later read out to the accused as per paragraph 9 of the plea bargain agreement which he confirmed to be true.
4. Accordingly, Plea Bargain Agreement form was adopted as a record of the court and the accused duly convicted the for the offence of Manslaughter contrary to Sections 202 and 205 of the Penal Code.
5. In addition, and to buttress their case, the prosecution adduced as exhibit 1 a post mortem report dated 8th September 2022 indicating the deceased's cause of death as multiple injuries to the head, chest and musco-skeletal injuries due to blunt trauma. The prosecution further produced as exhibit 2 a mental assessment report dated 14th September 2022 confirming that the accused was fit to stand trial.



6. The court also had the occasion to benefit from a presentence report dated 18th December 2025 by the Assistant Director, Probation Services whose import is that the accused is remorseful and blames the incident on intoxication. That his attitude has changed, is no longer alcoholic and both families are willing to receive him back and to support him. That he is no longer a threat to them as the two families have reconciled. A non-custodial sentence is recommended as the best way to give him another chance in life.
7. Upon mitigation on 26th February 2026, the Accused through his counsel urged the Court to consider a non- custodial sentence taking into account that the accused and deceased's families have since reconciled, the accused is a first offender and the sole bread winner for his young family comprising of an 8-month-old baby and three teenagers. That he is remorseful of the offence which he committed while he was intoxicated and has undergone counselling for anger management. Finally, it was submitted that he is rehabilitated and has started a business project in Nairobi. The Court was therefore urged to consider that the pre-sentence report has made positive recommendations for non-custodial sentence.
8. The prosecution reiterated its position as stated in the plea bargain agreement that the offence was aggravated by the fact that the accused hit the deceased continuously and ignored efforts by well wishers who tried to stop pushing them away and swearing that he would rather be in jail than to watch his wife being insulted by the deceased. He thereby occasioned the deceased fatal injuries. The prosecution urged the court to consider custodial sentence in the exercise of its discretion.
9. The Court has taken to account the mitigation together with the Probation Officer's Report dated 18th December 2025. The aforesaid Probation Report confirms that the two families have reconciled and that they have forgiven the accused and are not opposed to the Accused release on a non-custodial sentence since they no longer consider the Accused a threat to them. The report recommends that the accused be placed on probation considering that he now has a strong family support and a fixed abode.
10. Under section 205 of the Penal Code, the accused is liable face a punishment of life imprisonment. The Supreme Court in 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) held that a life imprisonment sentence is lawful and applicable. This was the finding in the cases where it was held that only Parliament has the power to revise a sentence prescribed under a statute. See the holding in Republic v Mwaniki [2026] KEHC 1302 (KLR).
11. This Court is cognizant of the fact that the accused is a first offender and is remorseful for the offence committed. The Court is also alive to the fact that during the commission of the subject offence the Accused was intoxicated hence, his judgment was impaired in the heat of alcohol-induced passion. Furthermore, the Accused has spent in excess of 3 years and 4 months in custody since 4th October 2022 when he first took plea.
12. The Court can exercise its discretion on sentencing given the circumstances of the case. The Probation Officer has recommended an appropriate non-custodial sentence. I note that the accused was first in court for plea on 4th October 2022. I am also cognizant that by pleading guilty to manslaughter the accused has saved precious judicial time. However, court does not lose sight to the fact that the deceased's life was cut short through the accused's reckless act.
13. Taking all the above factors into consideration, I hereby sentence the accused to fourteen (14) years imprisonment on the following conditions:
 - a) The sentence shall run from the date of the accused's first incarceration in this matter.



- b) the remaining term of the custodial sentence shall stand suspended; and;
- c) the accused shall be released to serve a three (3) year probation period on a programme to be designed and assigned by a Probation Officer in the area where the accused's family shall be living.
- iii) Should the accused have any negative contact with the law or commit any offences within three (3) years from today's date, the suspended sentence shall be re-imposed and he shall serve the remaining term thereof.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 5TH DAY OF MARCH, 2026.

HON. T. W. OUYA

JUDGE

For Accused.....Nicholas Mwangi Nyutu (Present in person)

For Accused.....Ms Githinji

For State.....Mwakio

COURT ASSISTANT.....Brian

