



**Republic v Chemitei (Criminal Case E012 of 2023)  
[2026] KEHC 2479 (KLR) (27 February 2026) (Sentence)**

Neutral citation: [2026] KEHC 2479 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ITEN  
CRIMINAL CASE E012 OF 2023  
JRA WANANDA, J  
FEBRUARY 27, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**JOHN SIKUKU CHEMITEI ..... ACCUSED**

**SENTENCE**

1. The accused person, a 63 years old man, was charged with the offence of murder contrary to Section 203 as read with Section 205 of the Penal Code. The particulars were that on 5/10/2023, at Kapsaina Village, within Elgeyo Marakwet County, he murdered one Samson Kiplagat Sikuku, his own adult son.
2. Ms. Nelly Too Advocate represents the accused, while Ms Racheal Mwangi is the Prosecution Counsel currently appearing for the State.
3. The accused took plea on 31/10/2023 before Nyakundi J, and pleaded not guilty. The parties subsequently entered into plea bargain discussions which eventually culminated to the plea bargain Agreement dated 1/07/2025, which indicated that the accused had agreed to plead guilty to the lesser charge of manslaughter, and to let the Court then determine the sentence.
4. The matter then came up for plea bargain hearing on 16/10/2025. The accused was sworn on oath, and after examining him, I recorded my satisfaction that Section 137F-137G of the Criminal Procedure Act, governing the plea bargain process had been complied with, that the accused had signed the agreement together with his Counsel, voluntarily, and without any coercion, and that he fully understood the effect thereof, and that members of the family had been involved in the process. I thus allowed accused to take a fresh plea, now on the fresh charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code, which he did, and upon which he then pleaded guilty. The



statement of facts of the case (factual basis) was then read out to the accused. The same was basically as follows:

“ The accused was the father of the deceased, Samson Kiplagat Sikuku. On 5<sup>th</sup> October 2023, the accused, John Sikuku Chemitei, went home while appearing to be drunk. He asked for food, which his wife Anna Kanda served him. The accused asked for salt and later went to his room. Later, shortly, the deceased told his father, ‘Mzee nitaku-delete.’ And threatened to harm the accused. The accused armed himself with an arrow and the deceased had a panga. The accused shot the deceased with a bow and arrow and the deceased then fell and yelled ‘Umenipiga mshale roho’. Ann, the mother, checked with a torch as her house was directly opposite, she saw the deceased lying down, face up, the accused was standing outside still armed with the bow and arrow. She screamed for help and police from Kapcherop police station came. At the scene, the police recovered one blood-stained arrow, a bow, and a panga, which they kept as exhibits. The accused person surrendered himself to the area assistant chief of Kibigos sub-location, who handed him over to the police.

The body of the deceased was taken to Iten County Referral Mortuary for preservation and autopsy. The post-mortem was conducted on 11<sup>th</sup> October 2023, which established the cause of death as bleeding as a result of a deep penetrating wound on the heart caused by a sharp object penetrating through the lungs and left ventricle of the heart.”

5. Prosecution Counsel then produced the Post Mortem Report dated 11/10/2023, blood-stained clothes, bow and arrow, and panga referred to above as exhibits.
6. When asked to confirm or refute or comment on the correctness of the said facts as read out, the accused confirmed the same as being correct and true. Satisfied that the statement of facts read out disclosed sufficient factual basis for the charge, this Court accordingly convicted the accused on the offence of manslaughter on his own plea of guilty.
7. Regarding the sentence to be meted out, Ms. Mwangi informed the Court that there were no previous criminal records relating to the accused hence he could be treated as a first offender.
8. On her part, Ms. Too, Counsel for the accused, in mitigation submitted that the accused is remorseful, he is an elderly 63 years old man, that he was provoked by the deceased who was drunk, and that this was therefore a case of self-defence, not premeditated. She also pointed out that the accused has been in custody since 2014, he has reformed, and that the victim’s family has expressed the position that they have made peace.
9. I then directed that a pre-sentence Report be prepared and filed, which was done. The Report, dated 31/10//2025 and prepared by the Probation & Aftercare Service (Elgeyo Marakwet County Office) indicated that it had been compiled after interviews with, inter alia, the accused, his family, the victim’s family and relatives, and neighbours, and also after assessing surrounding circumstances, and perusing and studying relevant documentation.

### **Determination**

10. The applicable law on sentence for the offence of manslaughter is Section 205 of the Penal Code which provides as follows:

“ Any person who commits the felony of manslaughter is liable to imprisonment for life”



11. In determining the appropriate sentence to impose, I take into account the Supreme Court decision in the the case of Francis Karioko Muruatetu & Another v Republic [2017] eKLR) in which it guided that, in sentencing, the following mitigating factors would be applicable;
- (a) age of the offender;
  - (b) being a first offender;
  - (c) whether the offender pleaded guilty;
  - (d) character and record of the offender;
  - (e) commission of the offence in response to gender-based violence;
  - (f) remorsefulness of the offender;
  - (g) the possibility of reform and social re-adaptation of the offender; and,
  - (h) any other factor that the Court considers relevant.

12. Similarly, the Court of Appeal, in the case of Daniel Kipkosgei Letting v Republic [2021] eKLR, pronounced as follows;

“With regard to the above, we observe that the purpose and objectives of sentencing as stated in the Judiciary Sentencing policy should be commensurate and proportionate to the crime committed and the manner in which it was committed. The sentencing should be one that meets the end of justice and ensures that the principles of proportionality, deterrence and rehabilitation are adhered to. ....”

13. Further, Majanja J, in quoting Francis Karioko Muruatetu (supra), in the case of Michael Kathewa Laichena & another v Republic [2018] eKLR, stated as follows:

“The Sentencing Policy Guidelines, 2016 (“the Guidelines”) published by the Kenya Judiciary provide a four tier methodology for determination of a custodial sentence. The starting point is establishing the custodial sentence under the applicable statute. Second, consider the mitigating circumstances or circumstances that would lessen the term of the custodial sentence. Third, aggravating circumstances that will go to increase the sentence. Fourth, weigh both aggravating and mitigating circumstances. ....”

14. With the above guidelines in mind, I have considered the manner in which the offence was committed, the circumstances whereof strongly indicate that the accused may have been provoked by the deceased who is said to have armed himself with a panga and confronted the accused (his own father), while threatening to cut him with it. The deceased is reported to have told the accused that “mzee nitaku-delete”, a slang phrase which I understand to more or less mean that “old man I will kill you”. Although the reason for their altercation was not revealed, it appears that the accused was offended by the acts of the accused returning home late that night while drunk and bothering everyone by demanding food. It therefore appears that the attack by the accused against the deceased may been retaliatory or a case of provocation or self-defence, a spur of the moment, not premeditated. It also appears to have been influenced by intoxication as the accused is said have returned home drunk that night before the deceased confronted him. I have also taken into account the fact that the accused has been described as a first offender. He also entered into the plea bargain agreement and thus pleaded guilty to the lesser charge of manslaughter, in the process, saving much judicial time. I have also considered the apparent remorse displayed by the accused.



15. I have also considered the contents, findings and recommendations of the Pre-sentence Report. The salient observations I make from the Report are that the accused has a history of alcohol use, and as aforesaid, he is also said to have been drunk at the time of the incident, which incident he visibly regrets, and is remorseful about, as evidenced by his entering into the plea bargain agreement. Regarding the family of the accused and the deceased, they are said to have come to terms with the death, and they are said to believe that the death was not planned as the accused was a peace-loving person, and the family had lived harmoniously. It is also reported that the family members held a series of reconciliatory meetings and have generally resolved to forgive the accused, whom they proposed, be released or granted a non-custodial sentence taking into account the circumstances of the offence and his age. The local administration is also said to have confirmed that the accused was a peace-loving person, and that the family members had held the said meetings to deliberate on reconciliation.
16. I have also taken into account the age of the accused (63 years old man), and his desire for re-integration to the community to rebuild his life. I also note that under the Plea Bargain Agreement, the Prosecution recommended a light sentence of 3 years' probation.
17. The above are no doubt, mitigating factors which ought to have a bearing on the sentence to be imposed.
18. There are however notable aggravating circumstances. For instance, the post mortem report paints a grim picture of a vicious and violent attack as indicated by the severe injuries inflicted upon the deceased. The deceased is reported to have suffered a deep perforating wound in or around the ribs area (6<sup>th</sup> intercostal space), deep perforating wound on the lungs which caused his lungs to collapse, and a deep perforating wound to the heart (left ventricle). It is the bleeding that resulted from these injuries that then significantly contributed to the death. In summary, the injuries were described as lungs collapse, haemorrhage shock and tamponade (compression of the heart caused by accumulation of fluid). By using the bow and arrow, a sharp, dangerous and lethal weapon, to shoot at the deceased, the accused obviously meant to inflict maximum injury, as these are weapons designed for that very purpose of killing.
19. Looking at the circumstances of the case, the accused clearly used unjustifiable and unnecessarily excessive force in attacking the deceased. Apart from the fact that the deceased confronted him while armed with the panga, there is no indication that the deceased in fact made any actual attempt to attack the accused with the panga. There is therefore no indication that the accused was in actual imminent danger. If he was in danger, he had the option of neutralizing the tension by taking flight by simply running away from the deceased. Instead, he opted for the poor decision of he, too, arming himself with a bow and arrow, which he then used to strike the deceased, in the process killing him, I believe, instantly. The fact that he even had the time to go back to the house, and pick the bow and arrow indicates that he was not under any immediate danger, and also had time to consider the consequences of his intended actions. I therefore believe that the accused acted out of a bid to prove his "manliness" and fear of being termed a coward. Unfortunately, he ended up making a poor judgment of the situation, and thus over-reacted. There is also no indication that the deceased had been a problematic son, or that the accused and the deceased had endured a long period of hostility between them such that the accused could be said to "have had enough" of the deceased. These are no doubt significant aggravating circumstances which this Court cannot close its eyes to.
20. In the circumstances, I find that a non-custodial sentence would not be appropriate in this case. Through a needless and rash action by the accused, a human life was lost and the Court must reiterate that it is not acceptable to take a human life extra-judicially, even of your own offspring, whatever the circumstances or level of provocation. I will therefore impose a prison sentence but since I find no



indication that the accused was at any point released on bond or bail since his arrest after occurrence of the incident on 5/10/2023, the period that he will serve the prison sentence shall be mitigated as a result of consideration of the period he already served in remand custody.

### **Final Orders**

21. In circumstances, I make orders as follows:

- i. I hereby sentence the accused, John Sikuku Chemitei, to serve four (4) years imprisonment.
- ii. As stipulated under Section 333(2) of the Criminal Procedure Act, the period already spent in remand custody by the accused before sentence shall be deducted in the computation of the period of imprisonment to be served. In other words, the period of serving the prison sentence shall be computed from the date that the accused was arrested, namely, 5/10/2023.

**DELIVERED, DATED AND SIGNED AT ELDORET THIS 27<sup>TH</sup> DAY OF FEBRUARY 2026.**

.....

**WANANDA JOHN R. ANURO**

**JUDGE**

Delivered in the presence of:

Appellant present physically in Court

Ms. Too for the accused person

Ms. Mwangi for the State

Court Assistant: Brian Kimathi

