

PUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO. E006 OF 2020

REPUBLIC.....

.....PROSECUTION

VERSUS

NICHOLAS CHERUIYOT KIPLANGAT.....

ACCUSED

JUDGEMENT AND SENTENCE.

1. The Accused, Nicholas Cheruiyot Kiplangat was charged with the offence of murder contrary to **section 203 as read with section 204 of the Penal Code**. The particulars of the offence were that on 20th November, 2020 at Sertwet Village of Sotik Sub County within Bomet County, he murdered Denis Kiprono Mutai.

2. The Accused took plea on 16th December, 2020 and pleaded not guilty to the offence.
3. A duly executed Plea Bargaining Agreement dated 29th July, 2025 was filed in court and it indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 24th November, 2025 this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the Plea Agreement voluntarily.
5. On the same day (24th November, 2025), the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kiswahili language which he understood and he pleaded guilty. The

court entered a plea of guilty for the offence of manslaughter.

6. The facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

“On 21st October, 2020 at around 0700hours, No. 224413 Sargent Peter Rono received a call from a good Samaritan namely Richard Serem. That he had found a body of one Dennis Kiprono Mutai in his shamba covered with tree branches. Police officers from Ndanai Police station rushed at the scene. They discovered a body with deep cut on the neck suspected to be stabbed by a sharp object and died. Kiplangat Cheruiyot (PW2) alias Rasta in his statement states that Nicholas Cheruiyot Kiplangat approached him in the morning hours and gave him a motor bike which was numberless. He told him he

had an emergency and wanted kshs. 500 which he will refund when he comes to pick the motor cycle.

Nicholas Cheruiyot Kiplangat now accused herein approached Jackline Chepkirui with a bag which had a jacket and told her to keep it for him. Later it was discovered that the motor cycle Nicholas Cheruiyot gave Kiplangat Cheruiyot was the same motor cycle that had been robbed off from the deceased. That the bag Nicholas Cheruiyot left with Jackline Chepkirui had a knife with blood stains. the Accused person lured the victim who was a boda boda rider pretending that there was a customer who needed to be ferried. The accused armed himself with a knife and when they reached the scene, he stabbed him on the neck and chest killing him instantly. The accused disclosed that he had

killed his friend because of a girlfriend called Milcah Cherotich who was not even at the scene but schooling at Eldoret Technical Institute.

On 30th November,2020, the Accused herein was arrested and later arraigned in court with the charge of murder and which offence has now commuted to a charge of manslaughter.”

7.The Accused accepted the facts as true and the court convicted him on his own guilty plea for the lesser offence of manslaughter contrary to **section 202 as read with section 205 of the Penal Code.**

Pre-Sentence Report

8. That the Accused was repentant and regretted the offence as he had no intention of killing the

deceased. The Accused asked this court for leniency.

9. The report stated that the victim's family had accepted forgiveness from the offender's family but the process of reconciliation has not been finalized. The mother went mute on the offender's release on non-custodial sentence. The community regarded the Accused as someone who abuses drugs especially bhang. It's the offender's family that is advocating for his release while in real sense the situation on the ground is still volatile. According to the area chief, tension exists between the families and the suspect's release on community-based sentence may not go well with the victim's family. Tension between the two families eased overtime to accommodate reconciliation but there are disagreements over non-custodial sentence in favor of the offender.

Victim Impact Statement.

10. The victim's who is the deceased person was a partial orphan having lost his father. The victim's mother was the hardest hit and hence suffered immense psychological trauma and has found it difficult to come to terms with the reality. The family accepted forgiveness from the offender's family but the process of reconciliation has not been finalized. The mother went mute on the offender's release on non-custodial sentence.

Accused's Mitigation

11. On mitigation, the accused is remorseful and regrets the circumstances under which he committed the offence. He understands well the seriousness of the offence and is well aware of the consequences that come along with it. He wishes

that he be given a second chance to mold his life once again.

12. It was counsel's submission that the court considers the time the Accused had already spent in remand.

13. The Accused was invited to address the court in person and he admitted to committing the offence. That it was not his will that he committed the offence.

Submissions by the State

14. Mr. Ayekha Shakwila the learned Prosecution Counsel submitted that the Accused has not compensated the deceased family and even his compensation cannot restore back the lost life. He further submitted that the court sentences the accused to a deterrence sentence of not less than

30 years imprisonment so as to serve as a lesson to other persons contemplating to kill others.

15. Sentencing serves multiple purposes as enumerated in the **Sentencing Policy Guidelines 2023** which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.**
- ii. Deterrence.**
- iii. Rehabilitation.**
- iv. Restorative justice.**

- v. Community Protection.**
- vi. Denunciation.**
- vii. Reconciliation.**
- viii. Reintegration.**

16. The penal section for the offence of manslaughter is contained in **section 205 of the Penal Code** which provides:-

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

17. I have considered the circumstances of the case. The Accused lured the victim who was a boda boda rider pretending that there was a customer who needed to be ferried. The accused armed himself with a knife and when they reached the scene, he

stabbed him on the neck and chest killing him instantly.

18. I have also considered the Accused's mitigation that he was remorseful and regretted the event. This court appreciates the fact that the family of the victim accepted forgiveness from the offender's family but the process of reconciliation has not been finalized. I have also noted that the offender's family is advocating for his release while the community and the Victim's family are against the suspect's release on community-based sentence while the Prosecution pushed for a custodial sentence.

19. The **Sentencing Policy Guidelines 2023** at paragraph 2.3.15 lists the factors that a court should consider when deciding to impose a

custodial or non-custodial sentence. They are as follows:-

- i) Gravity of the offence: In the absence of aggravating circumstances, or any other circumstance that renders a non-custodial sentence unsuitable, a sentence of imprisonment should be avoided with respect to sentences that have been adjudged as deserving less than three (3) years.**
- ii) Criminal history of the offender: Taking into account the seriousness of the offence, first offenders should be considered for non-custodial sentences except where the seriousness of the offence crosses the custody threshold (where the offence is so serious that**

neither a fine or community sentence can be justified).

iii) Children in conflict with the law: Generally speaking, non-custodial orders should be imposed as a matter of course in the case of children in conflict with the law. The exception to this is in circumstances where in light of the seriousness of the offence, coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest. Custodial orders should only be meted out as a measure of last resort and in accordance with the guidance provided under section 239 of the Children's Act, 2022. The court shall also issue post-committal supervision orders upon completion of the committal orders or the attainment of the age of

majority where it is appropriate to so do in light of the nature of the offence and circumstances of the offender.

- iv) Conduct of the offender: Non-custodial sentences are best suited for offenders who are already remorseful and receptive to rehabilitative measures.**
- v) Protection of the community: Where there is evidence that the offender is likely to pose a threat to the community, a custodial sentence may be more appropriate. The probation officer's reports should inform the court of the risk posed by the offender to the community in order to inform sentencing.**
- vi) Offender's responsibility to third parties: Where committing an offender to a custodial sentence is likely to unduly prejudice others, particularly vulnerable**

persons who depend on them, a court should consider if, in light of the nature and seriousness of the offence, the objectives of sentencing can be met with a non-custodial sentence. The court should enquire into the offender's personal circumstances and, where appropriate, seek the assistance of a pre-sentence report.

20. This is also in compliance with Article 159 of the Constitution is as far as alternative dispute resolution is concerned and timely resolution of matters.

21. Flowing from the above, it is my finding that the circumstances of the case and the nature of the deceased's death warranted the Accused to serve a custodial sentence.

22. In the end, the Accused, Nicholas Cheruiyot Kiplangat is sentenced to serve 15 years imprisonment. The sentence to run from the date of plea taking on 16th December, 2020. 14 days right of appeal.

Judgement delivered, dated and signed this 18th day of March, 2026.

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J.K.NG'ARNG'AR

JUDGE

Judgement delivered in the presence of:

Siele/Susan (Court Assistants)

Ms Koech for the state

N/A for the accused

ORIGINAL