

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL CASE NO. E029 OF 2021

REPUBLIC.....PROSECUTOR

VERSUS

ONESMUS MURIITHI NJERU.....ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of *manslaughter* under a plea agreement recorded on 9th February 2026. At the time of that agreement, *two* witnesses had testified against him on the original *information* for *murder*.
2. It bears repeating that up to that stage, the accused enjoyed the *presumption of innocence*. The conviction and sentence for *manslaughter* is now based exclusively on the admitted set of facts in the plea agreement.
3. *Amos Wandera Ochieng* (hereafter *the deceased*) was a *mkokoteni* (handcart) pusher. On 10th April 2021, at about 03:00 hours, he and three of his workmates (D1, D2 and D3) were warming around a fire at Muthurwa Kwa Mbolea. They then saw the accused enter the market through a side entrance by-passing the security. Their suspicions were aroused further because he carried a bag and T-

- shirt that he used as a makeshift vessel to steal tomatoes. When they moved in his direction, he dropped the tomatoes and ran away.
4. But the accused returned and punched the deceased and ran away the second time. The deceased gave chase and caught up with him. According to a witness (D2) the accused drew a knife and stabbed the deceased on the left lower abdomen. The deceased fell and the accused took off.
 5. D1, D2 and D3 placed the deceased on a handcart and pushed him to Kenyatta National Teaching and Referral Hospital where he was treated and discharged on the same day. The deceased could still not walk or talk properly and had a bleeding wound. They decided to take him to a clinic in Muthurwa where he was stitched and discharged. They then left him resting in a makeshift shelter. But when they checked on him at about 17:00 hours, he was dead.
 6. The accused was apprehended by the public on the same day and handed over to officers from Kamukunji Police Station.
 7. From the post mortem conducted on 13th April 2021, the cause of death was *“exsanguination due to abdominal injuries caused by a single stab wound”*. I find that the autopsy report (exhibit 1) is

consistent with the facts read out at the trial and now fully admitted by the accused.

8. Learned prosecution counsel, *Ms. M. Kigira*, confirmed that the accused is a first offender. She however sought a deterrent custodial sentence proportionate to the gravity of the offence and other aggravating circumstances.
9. I have considered the *mitigation* tendered by the accused through his learned counsel, *Mrs. W. Njehia*. The accused is remorseful and accepts full responsibility for his conduct. She said that the accused is young and may have acted out of poor judgment. Considering his poverty and poor living conditions on the streets, counsel prayed for leniency
10. I called for a *pre-sentencing report* on 9th February 2026. But owing to the challenges of locating the kin of the deceased or those of the accused, the Probation & Aftercare Service did not manage to file the social report by the time of this sentence. I remain alive that the report is for guidance of the court. I will do the best that I can in the circumstances.
11. I have kept in mind that the accused is a first offender and has saved the court judicial time by entering into the plea agreement.

He has also expressed genuine remorse. I have weighed it against the gravity of the offence. The accused used a knife to cut the deceased on the abdomen. While this is an *aggravating* factor, it occurred in the course of a *tussle* with the *deceased*.

12. Sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by the *nature and gravity of crime*. Manslaughter is a grave felony and attracts a sentence of life imprisonment. I find that justice of the case demands a custodial sentence. It will be a lesson to the accused and afford him full opportunity for reform and better control of his impulses.
13. I sentence the accused to serve *six (6) years* in jail. In accordance with section 333 (2) of the **Criminal Procedure Code**, the sentence shall run from 10th April 2021, the date when he was first arrested and placed in custody.
14. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but *only* on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED and DELIVERED at **NAIROBI** this 17th day of March

2026.

KANYI KIMONDO
JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

Accused.

Ms. M. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mrs Njehia for the accused instructed by Wambui Njehia & Company Advocates.

Mr. E. Ombuna, Court Assistant.

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