

PUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO. E026 OF 2021

REPUBLIC.....

.....PROSECUTION

VERSUS

GIDEON KIPNGETICH ROP *alias* CLINTON.....

.....1ST ACCUSED

PETER KIPNGETICH ROP.....2ND ACCUSED

JUDGEMENT AND SENTENCE.

1. The Accuseds, Gideon Kipngetich Rop *alias* Clinton and Peter Kipngetich Rop were 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 2nd day of November, 2021 at about 1300hours, at Bingwa

Village in Kiplabotwa Location within Bomet County, they jointly murdered Joel Kiprotich Sitienny.

2. Both Accused took plea on 9th November, 2022 where they pleaded not guilty to the charge of murder.

3. Plea-Bargaining Agreements for both Accused were filed on 18th November 2025 and they indicated that both Accused had agreed to plead guilty to the lesser offence of manslaughter. This court accepted the Plea Agreements after interviewing the Accused and satisfying itself that they executed the Plea Agreements voluntarily and that they understood their trial rights.

4. On 19th November 2025, the Accused took plea for the offence of manslaughter. The charge and every

element thereof were read and explained to them in a language they understood and they pleaded guilty. The court entered pleas of guilty for the offence of manslaughter.

5. In regards to the 1st Accused, the facts as read by the Prosecutor and captured in the Plea Agreement are as follows:

“On the 2nd November, 2021, at about 1.00pm, the deceased was heading home from his shamba. The three accused persons were in an adjacent farm cutting down trees. When the three accused persons saw the deceased, they began to chase after him. The deceased fell while trying to jump over a fence. The three accused persons caught up

with him. They quarreled him over a long-standing land dispute.

The third accused Robert Kipyegon Rop who was armed with a bow and arrow shot the deceased on his left arm. The second accused Peter Kipngetich Rop hit the deceased on his head and left leg with a nut headed rungu. The deceased raised alarm as he pleaded for his life. The first accused supplied more arrows to the third accused who shot the deceased again on his back. The 2nd accused used the nut headed rungu to drive the arrows deeper into the deceased's body.

Members of the public who were attracted by the commotion rushed to the scene and found the three accused persons at the scene standing over the deceased who was begging for his life. The three accused persons

threatened to cause harm to whoever helped the deceased. The three accused persons finally fled from the scene. The deceased was rushed to Longisa County Referral Hospital for treatment where he was admitted and succumbed to his injuries on 28th November, 2021.

On 5th December, 2021, a post mortem performed on the body of the deceased at Longisa County Hospital established the cause of death as cardiac arrest secondary to fat embolism resulting from large bone fractures. Two arrow heads were surgically removed and kept as exhibits.

The three accused persons who had gone into hiding were later arrested arraigned in court and charged with murder which offence has

now been commuted to a charge of manslaughter”.

6. In regards to the 2nd Accused, the facts as read by the Prosecutor and captured in the Plea Agreement are as follows: -

“On the 2nd November, 2021, at about 1.00pm, the deceased was heading home from his shamba. The three accused persons were in an adjacent farm cutting down trees. When the three accused persons saw the deceased, they began to chase after him. The deceased fell while trying to jump over a fence. The three accused persons caught up with him. They quarreled him over a long-standing land dispute.

The third accused Robert Kipyegon Rop who was armed with a bow and arrow shot the deceased on his left arm. The second accused

Peter Kipngetich Rop hit the deceased on his head and left leg with a nut headed rungu. The deceased raised alarm as he pleaded for his life. The first accused supplied more arrows to the third accused who shot the deceased again on his back. The 2nd accused used the nut headed rungu to drive the arrows deeper into the deceased's body.

Members of the public who were attracted by the commotion rushed to the scene and found the three accused persons at the scene standing over the deceased who was begging for his life. The three accused persons threatened to cause harm to whoever helped the deceased. The three accused persons finally fled from the scene. The deceased was rushed to Longisa County Referral Hospital for treatment where he was admitted and

succumbed to his injuries on 28th November, 2021.

On 5th December, 2021, a post mortem performed on the body of the deceased at Longisa County Hospital established the cause of death as cardiac arrest secondary to fat embolism resulting from large bone fractures. Two arrow heads were surgically removed and kept as exhibits.

The three accused persons who had gone into hiding were later arrested arraigned in court and charged with murder which offence has now been commuted to a charge of manslaughter”.

7. The Accused accepted the facts as true and were each convicted on their own guilty pleas for the lesser offence of manslaughter contrary to **section**

202 as read with section 205 of the Penal Code.

Pre-Sentence Report

1st Accused

8. The 1st Accused's pre-sentence probation report was filed on 11th March 2026 and it indicated that the underlying issue that led to the commission of the offence was an inherited land dispute that has lasted for over 50 years. The dispute started with the late grandfather of the offender and his late daughter who was the mother of the victim/the late Sitienei. The late grandfather of the offender (late Arap Chepkulul) had relocated to Kuto area in Narok and is reported to have left his land to his late daughter who was married within the locality and was the mother to the victim/the late Joel Sitienei. Social inquiry established that the offender's

grandmother (deceased) went away for a long period of time with his family but came back after sometime. It was also established that when he came back and wanted to re-occupy the land in question; his late daughter claimed that he had bought the said land and that was the beginning of the current land dispute that had culminated into a death trap that took directly the life of the victim/Joel Sitienei (deceased) and indirectly several others out of stress/blood pressure and/or perceived 'curses'. On the other hand, it was reported that the daughter and/or the late mother to late Sitienei/victim bought land from the offender's grandfather (deceased) in 1961 and settled on it in year 1963, when the late Sitienei/victim was born. When the offender's grandfather (deceased) came back in 1965, the dispute about the ownership started. The offender's grandfather (deceased) claimed that he never sold

the said land to his late daughter but had told her to utilize it until he came back. On the other hand, the late daughter/late mother to the victim claimed that his late father had sold the land to her and did not expect him to have come back. So, the dispute started and has continued in and out of court until today, that is from the grand parents to parents and now children and grandchildren. That the late Sitienei/victim is the maternal uncle to the offender's father (deceased). It is said that many people have died as a result of this land dispute. It is said that the offender's late grandfather and mother died of stress and blood pressure caused by the prolonged land dispute. It is also stated that his late daughter/mother to the victim (deceased) was cursed by offender's late grandfather and died later after being bitten by unknown creature, similar to the cat, while harvesting sorghum. The offender's father died later and now the victim and/or uncle to

the offender's father died as a result of a fight emanating from this land dispute. It is also worth noting that several attempts have been made to resolve the dispute but it has never ended.

9. The report stated that the 1st Accused was negatively rated by the local community. The offender and his family are seen as not being remorseful since they have not taken trouble to seek forgiveness from the deceased family. The offender's family has been trying to convene reconciliation meetings but none has been successful and lack support and blessings of the clan. He is therefore not welcomed by the community members since tension is still high between the two families and nothing has been resolved so far.

10. The Probation Officer did not recommend a non-custodial sentence. He however requested the Honourable Court to mete an appropriate sentence.

Victim Impact Statement.

11. The report stated that the victim's family had not come to terms with the death of the victim as he was the breadwinner of the family. The wife of the deceased was still recovering from the painful death of her late husband/victim. The widow and family are demanding for justice and want justice. The widow and the relatives are strongly in opposition in the release of the offender on non-custodial sentence or any lenience extended to him.

2nd Accused

12. The 2nd Accused's pre-sentence probation report was filed on 11th March, 2026. It indicated

that the underlying issue that led to the commission of the offence was an inherited land dispute that has lasted for over 50 years. The dispute started with the late grandfather of the offender and his late daughter who is the mother of the victim/the late Sitienei. The late grandfather of the offender (late Arap Chepkulul) had relocated to Kuto area in Narok and is reported to have left his land under his late daughter who was married within the locality and is the mother to the victim/the late Joel Sitienei. Social inquiry established that the offender's grandmother (deceased) went away for a long period of time with his family but came back after sometime. It was also established that when he came back and wanted to re-occupy the land in question; his late daughter claimed that he had bought the said land and that was the beginning of the current land dispute that has culminated into a death trap that

took directly the life of the victim/Joel Sitienei (deceased) and indirectly several others out of stress/blood pressure and/or perceived 'curses'. On the other hand, it was reported that the daughter and/or the late mother to late Sitienei/victim bought land from the offender's grandfather (deceased) in 1961 and settled on it in 1963, when the late Sitienei/victim was born. When the offender's grandfather (deceased) came back in 1965, the dispute about the ownership started. The offender's grandfather (deceased) claimed that he never sold the said land to his late daughter but had told her to utilize it until he came back. On the other hand, the late daughter/late mother to the late victim claimed that his late father had sold the land to her and did not expect him to have come back. So, the dispute started and has continued in and out of court until today that is from the grand parents to parents and now children and grandchildren. The

late Sitienei/victim is the maternal uncle to the offender's father (deceased). It is said that many people have died as a result of this land dispute. It is said that the offender's late grandfather and mother died of stress and blood pressure caused by the prolonged land dispute. It is also stated that his late daughter/mother to the victim (deceased) was cursed by offender's late grandfather and died later after being bitten by unknown creature, similar to the cat, while harvesting sorghum. The offender's father died later and now the victim and/or uncle to the offender's father died as a result of a fight emanating from this land dispute. It is also worth noting that several attempts have been made to resolve the dispute but it has never ended.

13. The report stated that the 2nd Accused was negatively rated by the local community. The offender and his family are seen as not being

remorseful since they have not taken trouble to seek forgiveness from the deceased family. The offender's family has been trying to convene reconciliation meetings but none had been successful and lack support and blessings of the clan. He is therefore not welcomed by the community members since tension is still high between the two families and nothing has been resolved so far.

14. The Probation Officer did not recommend a non-custodial sentence subject to discretion. He however requested the Honourable Court to mete an appropriate sentence.

Victim Impact Statement.

15. The report stated that the victim's family had not come to terms with the death of the victim and he was the breadwinner of the family. The wife of the deceased was still recovering from the sudden

and painful death of her late husband/victim. The widow and family are demanding for justice and want justice. The widow and the relatives are strongly in opposition in the release of the offender on non-custodial sentence or any lenience extended to him.

Prosecution's submissions

16. Through their written submissions dated 10th December 2025, the Prosecution submitted that the deceased died a painful death. That the deceased's death had resulted in untold suffering to his young family left behind. The Prosecution recommended a sentence of life imprisonment.

17. 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.**

18. 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.

19. I have considered the circumstances of the case and the pre-sentence report. The Accused's family and Probation Officer advocated for an appropriate sentence.

20. 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.

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

22. In the final analysis, it is my finding that a life was lost. The Accused must serve custodial and deterrent sentences.

23. In the end, the 1st Accused and the 2nd Accused each is sentenced to serve 15 years imprisonment. The sentence to run from the date the Accuseds were first arraigned in court for plea taking that is on 9th November, 2022. Right of appeal 14 days.

Judgement and Sentence delivered, dated and signed this 17th day of March, 2026.

.....
J.K.NG'ARNG'AR

JUDGE

Judgement delivered in the presence of:

Siele/Susan (Court Assistants)

Ms Koech for the state

1st accused present in person

2nd accused present in person