

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

HCCR CASE NO. 17 OF 2019

(CORAM: HON. CHARLES KARIUKI – J)

REPUBLIC.....PROSECUTOR

-VERSUS-

REUBEN KARANI WAMBULWA Alias WAINGO..... ACCUSED

RULING/SENTENCE

1. The accused was charged with murder Contrary to Section 203 as read with Section 204 of the Penal Code, Cap 63 Laws of Kenya.
2. He pleaded not guilty and matter went into pretrial directions. Later along the way, the parties negotiated a plea VIA A Bargain PROCESS culminating with an agreement on charge of manslaughter which substituted the information of murder.
3. He pleaded guilty to the charges and a plea of guilty was entered. The facts were read to him which he admitted namely:

That on 16th November 2019 at around 10.00p.m. the deceased Binaris Monari went to drink at Nyati Bar within Narok Township he was in the company of another person. The deceased had taken alcohol elsewhere and was a bit drunk, as he entered the bar he was staggering and he went near a table that had two customers sitting, he then poured the drinks that were on the table. The accused person

and his companion then asked the deceased why he had poured their drinks. The deceased answered 'pombe naweza lipa'. The accused then grabbed the deceased and shoved him outside the bar and pushed him. The deceased fell on his back and the deceased sustained injuries on the head. D-1 Benjamin Mbugua Karanja Alias Pato an employee at the bar and D-2 Johnson Kihara the owner of Nyati Bar, were present and they saw the entire incident. The accused person then left.

D-3 Dickson Mutheka the watchman at Nyati Bar states that he saw the deceased lying just next to the main door of the bar, he inquired from the people present and was notified by D-1 Benjamin Mbugua Karanja that the deceased had been pushed down to the ground by one known by him alias "Waingo" D-3 Dickson Matheka checked the deceased and saw some blood oozing from his mouth and from the back of his head. D-2 Johnson Kihara states that when he looked at the deceased, he saw injuries on the back of the head and stains of blood on the deceased's back. He further states that the deceased became unconscious and he didn't talk or make any movement. He observed him further and noted that the deceased had stopped breathing. He closed his business since members of the public were beginning to gather and he went to file a report at Narok Police Station.

i) D-7 Eugene Musundi an officer from Narok Police Station was on patrol within London Estate within Narok Township when he received a call from the OCS Narok Mr. Njeru to proceed to Nyati Bar that there was a report to the said bar and found the deceased body lying on the veranda outside Nyati Bar. He tried to gather information from members of the public who were not forthcoming with any information. A member of the public Moses Maina volunteered that he was a friend of the deceased and provided the name of the deceased and the location of his parents. They then moved the body to Narok County Referral Hospital Mortuary.

ii) On 3rd December 2019, D-6 Dennis Mukaruri, a brother to the deceased identified the body of the deceased to Dr. Misoi of Narok County Referral Hospital who conducted the postmortem on the body of the deceased. The doctor on examination of the head noted the following: clots of blood on the occipital region of the brain and determined the cause of death as ‘head injury second to homicide.’

iii) The accused was examined on 29th December, 2019 at Narok County Referral Hospital and was found to be ‘mentally fit to stand trial.’

4. He admitted facts narrated above and he was convicted on his own plea.
5. The prosecution indicated to court there were no previous records thus he be treated as a first offender.

6. Pre-Sentence Report was ordered to be filed which stated that in summary:

Conclusion: -

The offender is a middle-aged man of thirty years. He is pleading for the court's leniency admitting that his drunken state of mind greatly contributed to his irrational actions which have now landed him in trouble. He reports that he has resolved to stop the bad habit of abusing alcohol. The social inquiry into his previous conduct among his relatives in Kakamega and the immediate family who live here in Narok did not establish a life trend inclined to criminality or any adverse record that may point to undesirable behavior in society. The predisposing factor that led to his involvement in this matter is his habit of abuse of alcohol and the attendant impaired Judgment and impulsive behaviour. The corrective measure can be achieved according to the offender appropriate guidance on how he can manage this weakness and possibly wean himself of alcohol consumption.

An attempt to get views of the victim's family did not bear fruit as they did not heed the call to avail themselves for interview. The offender's mother reported that the two families are not know to each other.

7. Recommendation:

It is apparent that the offender now understands that abuse of alcohol greatly contributed to his involvement in the crime and has made a commitment to deal with his weakness. The Honorable Court may

consider his plea for leniency and mete out an appropriate sentence suitable for his reformation including the option for a non-custodial sentence under the probation of offenders' act.

8. In mitigation, the accused Advocates stated, accused is a first offender. He is repentant and remorseful and also relied on Pre-Sentence Report content.
9. In sentencing an accused person who has admitted to manslaughter (Section 202-205 of the Penal Code) involves balancing the gravity of the lost life against mitigating circumstances, aiming for a sentence that is proportionate, rehabilitative, and just
- 10.. While manslaughter carries a maximum sentence of life imprisonment, courts exercise discretion based on guidelines established in cases such as *Francis Karioko Muruatetu & Another vs. Republic* and the Revised Sentencing Policy Guidelines (2023).
11. Here are the key factors considered in sentencing:
 - 12.1. Mitigating Factors (Factors favoring a lighter sentence)
 13. **Guilty Plea (Early Admission):** Admitting the offense at the earliest opportunity is a major mitigating factor, as it saves judicial time and resources.
 14. **Remorsefulness:** Genuine remorse, expressed through actions like seeking forgiveness or apologizing to the victim's family, is highly regarded.

- 15.**First Offender Status:** Having no prior criminal record suggests potential for rehabilitation.
- 16.**Provocation/Heat of Passion:** If the killing resulted from sudden provocation or a fight, rather than premeditation, this significantly reduces culpability.
- 17.**Age of the Offender:** Youthful offenders are often given lower sentences to allow for rehabilitation.
- 18.**Cooperation with Authorities:** Voluntarily surrendering or assisting police during investigation.
- 19.**Reconciliation Efforts:** Evidence of attempted restitution or compensation to the victim's family.
- 20.**Time Spent in Custody:** According to Section 333(2) of the Criminal Procedure Code, the time spent in remand during the trial is factored into the final sentence.
- 21.2. Aggravating Factors (Factors increasing the sentence)
- 22.**Use of Dangerous Weapons:** Use of weapons like knives, guns, or heavy clubs generally leads to higher custodial sentences.
- 23.**Excessive Force/Brutality:** Engaging in repeated attacks or excessive violence, even during a fight.
- 24.**Premeditation or Planning:** While manslaughter usually implies no malice aforethought, elements of planning increase the severity.

25.**Prevalence of the Offence:** If the crime (e.g., mob justice or clan skirmishes) is common in the area, the court may impose a stricter sentence for deterrence.

26.**Vulnerability of the Victim:** Targeting children, women, the elderly, or disabled persons.

27.3. Procedural and Contextual Factors

28.**Pre-Sentence Report:** A report by a probation officer is essential to evaluate the offender's background, character, remorse, and likelihood of rehabilitation.

29.**Victim Impact Assessment:** The court considers the impact of the death on the victim's family.

30.**Plea Bargain Agreements:** If a plea bargain was reached, the sentence recommended by the prosecution is considered, though not binding on the court.

31.**Reintegration & Community Safety:** Reports on whether the offender can safely return to the community without risking revenge or endangering others.

32. Summary of Sentence Trends (2025-2026)

33. Recent Kenyan High Court rulings (2025-2026) show that while life imprisonment is possible, typical sentences for manslaughter following a guilty plea, where remorse is shown, often range from **5 to 15 years**

imprisonment, depending on the weapon used and the brutality of the act.

34. Having considered the entire spectrum of the materials above presented to this court, the age of the case and the period accused has been in custody and the disclosed circumstance leading to the death of the victim, I consider this case to be suitable for sentence of two (2) years' probation for accused to be rehabilitated and integrated in the community.

DATED AND DELIVERED AT NAROK VIA MICROSOFT TEAMS THIS 13TH MARCH 2026.

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CHARLES KARIUKI
JUDGE