

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO. E012 OF 2022

REPUBLIC.....

.....PROSECUTION

VERSUS

ERICK KIMNGETICH KIRUI 1ST ACCUSED

RONALD KIPROTICH LANGAT 2ND ACCUSED

JUDGEMENT AND SENTENCE.

1. The Accused, Erick Kimngetich Kirui and Ronald Kiprotich Langat 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 17th May 2022 at around 0330 hours at Nyambuho Location in Chepalungu Sub-County within Bomet County, they jointly murdered Gilbert Cheruiyot Koech.

2. The Accused took plea on 28th June 2022 where he pleaded not guilty to the charge of murder.

3. Plea-Bargaining Agreements for both Accused were filed on 20th 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 25th 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 16th May 2022 at 1800 hours, Gilbert Cheruiyot (deceased) with his friends Erick Kirui and Ronald Langat were consuming local brew at the home of Julius Katam Kibet.

In the course of conversation, the deceased alleged that the family members of Eric Kirui were witches. A fight ensued between Erick and the deceased. Ronald Langat joined his friend Erick Kirui and they jointly assaulted the deceased with stones. Attempts by Julius to stop the fight were fruitless and the deceased fell on the ground and remained motionless while bleeding on his chin.

Julius Katam called the area Chief as the two suspects staggered away. The Chief arrived with police officers

and took away the body to the mortuary at Longisa Hospital.

A post mortem was conducted and revealed that the deceased died from massive internal bleeding to the chest secondary to blunt trauma to the chest by a heavy blunt object. Chin wound and fractured mandible likely caused by a heavy blunt object.

The two Accused were charged with murder but have agreed to plead guilty to the 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 16th May 2022 at 1800 hours, Gilbert Cheruiyot (deceased) with his friends Erick Kirui and Ronald Langat were consuming local brew at the home of Julius Katam Kibet.

In the course of conversation, the deceased alleged that the family members of Eric Kirui were witches. A fight ensued between Erick and the deceased. Ronald Langat joined his friend Erick Kirui and they jointly assaulted the deceased with stones. Attempts by Julius to stop the fight were fruitless and the deceased fell on the ground and remained motionless while bleeding on his chin.

Julius Katam called the area Chief as the two suspects staggered away. The Chief arrived with police officers and took away the body to the mortuary at Longisa Hospital.

A post mortem was conducted and revealed that the deceased died from massive internal bleeding to the chest secondary to blunt trauma to the chest by a heavy blunt object. Chin wound and fractured mandible likely caused by a heavy blunt object.

The two Accused were charged with murder but have agreed to plead guilty to the charge of manslaughter.”

7. The Accused accepted the facts as true and were each convicted his 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 1st Accused and the deceased were cousins and the accusation of the 1st Accused's family practicing witchcraft was made while the 1st Accused and the deceased were intoxicated. That the accusation sparked a confrontation and the 2nd Accused joined the fray and they beat up the deceased with stones until he succumbed to his injuries.

9. The report stated that the 1st Accused was positively rated by the local community. That the community fully understood the circumstances surrounding the commission of the offence and embraced reconciliation between the two families.

10. The Probation Officer recommended a non-custodial sentence of probation for three years.

Victim Impact Statement.

11. The report stated that the 1st Accused and the deceased were cousins. That the victim's family had gradually come to terms with the incident and had begun to find some measure of healing. The report further stated that the family was divided on the issue of reconciliation as some members were still bitter with the 1st Accused.

2nd Accused

12. The 2nd Accused's pre-sentence probation report was filed on 11th March 2026 and it indicated that the 2nd Accused was a nephew to both the deceased and the 1st Accused. That the accusation of the 1st Accused's family practicing witchcraft was made while the 1st Accused and the deceased were intoxicated. The report further stated that the accusation sparked a confrontation and the 2nd Accused joined the fray and they beat up the deceased with stones until he succumbed to his injuries.

13. The report stated that the 2nd Accused was positively rated by the local community. That the community fully understood the circumstances surrounding the commission of the offence and embraced reconciliation between the two families.

14. The Probation Officer recommended a non-custodial sentence of probation for three years.

Victim Impact Statement.

15.The report stated that the victim's family had gradually come to terms with the incident and had begun to find some measure of healing. The report further stated that the family was divided on the issue of reconciliation as some members were still bitter with the 2nd Accused.

Prosecution's submissions

16.Through their written submissions dated 16th December 2025, the Prosecution submitted that the deceased died a painful death and that the Accused did not bear in mind that the deceased was intoxicated when he made the allegations of witchcraft. That the Accused have not shown any remorse and the deceased's death had resulted in untold suffering to his young family left behind. The Prosecution recommended a sentence of 15 years 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 a non-custodial 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 (2)(c)** of the **Constitution** which encourages parties to be involved in resolution matters.

22. In the final analysis, it is my finding that this was not a suitable case for grant of a non-custodial sentence. A life was lost and the Accused could not hide behind the vice of alcoholism. In my view, the Accused must serve custodial sentences.

23. In the end, the 1st Accused is sentenced to serve 10 years imprisonment and the 2nd Accused is sentenced to serve 10 years imprisonment. The sentences to run from the date of plea taking being on 28th June, 2022.

**Judgement and Sentence delivered, dated and signed at
Bomet this 18th March, 2026.**

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**HON. JULIUS K. NG'ARNG'AR
JUDGE**

Judgement delivered in the presence of:

Siele/Susan (Court Assistants)

Ms Koech for the State

Accused:

Ondieki for the accused

Kiprop Probation Officer

ORIGINAL