

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIBERA**  
**CRIMINAL CASE NO. 20 OF 2023**

**REPUBLIC.....PROSECUT  
OR**

**VERSUS**

**DANIEL KIRIINYA MUNGANIA.....  
ACCUSED**

**JUDGEMENT**

1. The accused, Daniel Kiriinya Mungania, was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63, laws of Kenya. The particulars are that on the night of 22<sup>nd</sup> October 2022 at Fremo Area in Kabiria, Dagoretti Sub County within Nairobi County murdered Eddy Brian Onyango.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter and signed a plea agreement on 3<sup>rd</sup> October 2024. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as outlined in the plea agreement, are as follows. On 22<sup>nd</sup> October 2022 at approximately 10:00 p.m., the deceased, Eddy Onyango, arrived at Destiny Bar located at Fremo Area, Kabiria within Dagoretti Sub-County. His entry into the premises was captured by a CCTV camera installed at the bar's entrance. While inside the bar, he was served two bottles of Balozi beer by the bar manager, Nelly Wanjiru Muiro, and settled payment for the drinks approximately one hour later.

4. On the same night, the bar manager observed the accused person, whom she knew by the name "Makaveli," loitering within the premises. She recalled that he did not purchase any item from the bar. The bar closed at approximately 11:30 p.m. Between 11:30 p.m. and 11:40 p.m., CCTV footage from Destiny Bar captured the deceased outside the premises briefly conversing with individuals on a motorcycle. Shortly thereafter, the footage showed the accused striking the deceased at the back of the head with a bottle, causing the deceased to fall to the ground.
5. The accused proceeded to assault the deceased further while ransacking his pockets and removing certain items. He then crossed the road to where the deceased had parked his motor vehicle, gained entry into it and interfered with the interior. The deceased subsequently regained consciousness and followed the accused to the vehicle. Upon noticing him, the accused assaulted him further by forcefully striking him with the car door, causing the deceased to fall again, after which the accused fled the scene.
6. Following the assault, the deceased managed to board a motorcycle and proceeded to his brother's residence. While there, he informed his siblings that he had been attacked by a person who struck him on the head with an object and stole his mobile phone. The deceased was bleeding from the head and was immediately rushed to Kenyatta National Hospital, where he succumbed to his injuries on 23<sup>rd</sup> October 2022 while undergoing treatment.
7. According to the post-mortem report dated 26<sup>th</sup> October 2022, the Government Pathologist formed the opinion that the cause of

death was polytrauma with subdural haematoma, tonsillar herniation and bowel rupture secondary to blunt force trauma. The accused person was arrested on 9<sup>th</sup> February 2023 at a chang'aa den within Kabiria area. He was positively identified through an identification parade, and the bar manager, Nelly Wanjiru Muiru, confirmed that both the accused and the deceased were persons well known to her.

8. A mental assessment report dated 21<sup>st</sup> February 2023 found the accused fit to plead to the charge. The Directorate of Criminal Investigations issued a letter dated 2<sup>nd</sup> November 2022 requesting the CCTV footage from Destiny Bar, and a consent form permitting the search and retrieval of the CCTV footage was executed by the owners of the premises. The footage was analysed by a forensic analyst who prepared a report dated 17<sup>th</sup> February 2023. The extracted CCTV footage is before the court, together with a certificate of production under the Evidence Act dated 20<sup>th</sup> February 2023. The items were produced as Exhibits 1 – 8 respectively.
9. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that the accused's constitutional rights had not been violated during the negotiation process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.
10. In mitigation, Mr. Msiro, learned counsel for the accused, submitted that the accused expressed his condolences to the family of the deceased and expressed deep remorse for the unfortunate incident. Counsel submitted that the accused had cooperated fully with the prosecution throughout the proceedings

and had pleaded guilty. It was further submitted that the incident was accidental and occurred while the accused was intoxicated and not in his proper state of mind, as he had been struggling with alcohol addiction.

11. Counsel stated that the accused was a first offender and a young man aged 27 years who had previously performed well academically, having attained a B- in his Kenya Certificate of Secondary Education examinations. He further submitted that the accused had since joined counselling programmes and had learnt his lesson. The accused was also said to have two young children who depend on him. Counsel therefore prayed that the Court consider giving the accused an opportunity to reform and serve the community.
12. Counsel further submitted that the accused's family had taken steps towards reconciliation with the family of the deceased through the intervention of the Probation Department. A meeting was convened at the Kibera Sub-County offices and was facilitated by probation officers. Present at the meeting were the father of the deceased, Peter Onyango, the mother of the deceased, Caroline Onyango, and the deceased's wife, Joyce Mwendu Munuve. The accused's family members, including his mother Jemimah Manyara and his sister Tegla Mungania, also attended. The brother of the deceased, Bruce Onyango, was likewise present.
13. It was submitted that during the said meeting the families deliberated on the matter and reached a reconciliation. The accused's family offered a sum of Kshs. 200,000/= as compensation to the deceased's family, of which Kshs. 50,000/=

had already been paid through the Probation Office, with the balance to be paid in instalments.

14. The Court further directed that the accused be escorted to counsellors to commence counselling and rehabilitation owing to his previous addiction to alcohol and drugs, and that the Probation Officer file a further report to confirm whether the accused would be suitable for a non-custodial sentence.
15. The Court thereafter received victim impact statements. Joyce Mwendu Munuve, the wife of the deceased, informed the Court that she and the deceased had two children aged eight years. She stated that the death of her husband had greatly affected her and the children and that she had since relocated from Nairobi to Migori, where she now undertakes casual work to support the family. She urged the Court to impose a custodial sentence.
16. Peter Onyango Odoro, the father of the deceased, stated that the deceased had been his primary support as he was unwell and depended on him for medication, clothing and food. He expressed the hardship occasioned by his son's death but left the question of sentence to the Court.
17. Caroline Amollo Onyango, the mother of the deceased, stated that the death of her son had caused the family great pain and hardship and prayed that the Court impose a life sentence.
18. Joyce Mwendu Munuve further confirmed that the family had received compensation of Kshs. 200,000/=, of which she received Kshs. 100,000/= while the deceased's mother received the remaining Kshs. 100,000/=.
19. In response, Ms. Timoi for the State acknowledged that the accused had sought plea bargaining and made efforts to reconcile

with the victim's family. However, she submitted that the circumstances of the offence were aggravating, noting that the CCTV footage showed the accused attacking the deceased without provocation in the course of attempting to steal from him, which ultimately led to the deceased's death. The prosecution therefore urged the Court to impose a deterrent custodial sentence.

20. In reply, Mr. Msiro reiterated that the accused was remorseful, had undergone rehabilitation, and had made efforts to reconcile with the victim's family. Counsel urged the Court to consider a lenient sentence and allow the accused an opportunity to reintegrate into the community.

21. The probation report on record recommended a non custodial sentence and continued rehabilitation of the accused.

22. Having considered the plea agreement, the circumstances surrounding the offence, the probation report, and the impact on the victim's family and the community, it is clear that this was a grave and senseless act of violence. The accused, while showing some remorse through his plea, acted with extreme aggression, causing the death of a family member. His actions were not only criminal but deeply traumatising to the victim's family. The offender's flight from justice and his association with a violent group heighten the seriousness of the offence.

23. 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.**

24. The Court of Appeal in **Thomas Mwambu Wenyi v Republic (2017) eKLR** cited the decision of the Supreme Court of India in **Alistar Anthony Pereira v State of Mahareshra at paragraphs 70-71**, where the court held as follows on sentencing:

*“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the offender. The court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence”*

25. Having considered the plea of the accused, the circumstances surrounding the offence, the probation report, the mitigation by counsel, and the victim impact statements presented before the Court, it is evident that the offence was grave and resulted in the

tragic and untimely loss of life. The evidence on record, including the CCTV footage produced before the Court, demonstrates that the accused violently attacked the deceased outside Destiny Bar and inflicted injuries which ultimately led to the deceased's death.

26. The Court has considered the mitigating factors advanced on behalf of the accused. In particular, the accused pleaded guilty, expressed remorse, and is a first offender aged 27 years. The Court also notes the submissions that the accused had been struggling with alcohol and drug abuse and that steps have since been taken to place him under counselling and rehabilitation. This Court considers rehabilitation to be an important component in addressing the underlying substance abuse issues that contributed to the commission of the offence, so as to reduce the likelihood of reoffending.

27. The Court further takes note of the efforts made towards reconciliation between the families of the accused and the deceased. Through the intervention of the Probation Department, meetings were convened bringing together members of both families. The accused's family expressed remorse and offered compensation to the family of the deceased in the sum of Kshs. 200,000/= as a gesture of apology and reconciliation, which amount was received and shared between the deceased's wife and mother. While such efforts cannot restore the life that was lost, they nevertheless demonstrate a measure of accountability and willingness on the part of the accused and his family to make amends.

28. Notwithstanding the foregoing, the consequences of the offence remain severe. The deceased was a young family man who

supported his wife, children and elderly parents. His death has left his immediate family in considerable hardship, as reflected in the victim impact statements before the Court. The deceased's wife has been compelled to relocate and undertake casual labour to support their children, while his elderly parents, who depended on him for sustenance and medical care, have been left in a vulnerable position.

29. In the circumstances, the Court must carefully balance the mitigating factors, including the accused's youth, remorse, rehabilitation efforts and reconciliation initiatives, against the aggravating circumstances of the offence, particularly the violent nature of the attack and the irreversible loss of life occasioned thereby. The sentence imposed must therefore reflect the seriousness of the offence, the need for accountability, deterrence, and the possibility of rehabilitation.

30. In the circumstances, I sentence Daniel Kiriinya Mungania to (5) years imprisonment. The sentence shall run from 9<sup>th</sup> February 2023, the date of his arrest pursuant to section 333(2) of the Criminal Procedure Code. After the completion of his custodial sentence, the convict shall be placed on probation for a further period of three (3) years under the supervision of the Kibera Probation Officer.

Orders accordingly.

**Judgement dated and delivered this 9<sup>th</sup> day of April 2026**

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**D. KAVEDZA  
JUDGE**

**In the presence of:**

Ms. Timoi for the Prosecution

Mr. Msiro for the Accused

Karimi Court Assistant.

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