

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

HIGH COURT CRIMINAL CASE NO. E017 OF 2023

REPUBLIC.....

PROSECUTOR

VERSUS

JOSEPH

MBURU

WANYOIKE.....ACCUSED

RULING ON SENTENCE

1. The accused, *Joseph Mburu Wanyoike* was initially charged with the offence of murder contrary to *section 203* as read with *section 204* of the *Penal Code* but was convicted on his own plea of guilty with the offence of manslaughter contrary to *section 202* as read with *section 205* of the *Penal Code* under a plea bargain agreement dated 25th April 2025.
2. The particulars are that on 5th October 2025 at Muthitha village in Murang'a County, the accused unlawfully caused the death of *Peter Mau*.

- 3.** The facts of this case are quite tragic. They demonstrate the irredeemable loss and damage uncontrolled emotions and anger can cause to disputants and their families if personal conflicts are not resolved amicably or through due process.
- 4.** The facts in this case reveals that the deceased was the accused's paternal uncle. They lived in neighbouring compounds. On 5th October 2020 at around 2.30pm, the deceased left his house and went to the accused's home compound. He found the accused's mother and brother outside their house.
- 5.** For no good reason, the deceased confronted and started assaulting the accused's brother punching him with blows on his head. The accused's mother intervened to save her son but the deceased also attacked her with a piece of wood causing her serious injuries on her head. Afraid of her life, she ran away from the scene and reported the matter at Ngurweini Police Post.
- 6.** On learning about the assault on his mother and brother, the accused went home and confronted the deceased. He demanded to know why he had assaulted his mother. In

anger, the accused stabbed the deceased with a knife on his stomach causing him serious injuries. On being taken to hospital for treatment, the deceased was pronounced dead on arrival.

- 7.** An autopsy conducted later revealed that the deceased's cause of death was shock due to massive hemorrhage secondary to a stab wound.
- 8.** After committing the offence, the accused went underground. He was arrested three years later and was charged with the offence of murder which as earlier indicated was reduced to the lesser offence of manslaughter.
- 9.** In mitigation on behalf of the accused, learned counsel *Mr. Kirubi* who held brief for *Ms. Kinyua* for the accused urged me to note that the accused was 30 years old and was a first offender. He beseeched me to exercise leniency in sentencing the accused on grounds that the accused was remorseful for what happened and had since reconciled with the victim's family; that the accused had been in custody since July 2023 and the period spent in custody should be considered sufficient punishment for

the offence he committed. He prayed for a non-custodial sentence to give the accused a chance to reconstruct his life.

10. The court called for a pre-sentence report which was filed on 17th March 2026. A reading of the report gives a distinct impression that the accused was not remorseful for the offence he committed. The report does not also support the accused's claim that he had since reconciled with the victim's family. Views of the victim's family as captured in the report shows that the deceased's family was still bitter for having lost their loved one who was a husband and a father and also their sole bread winner.

11. I have carefully considered the circumstances in which the offence was committed and the accused's plea in mitigation including his age and the fact that he was a first offender. I have also considered the findings in the pre-sentence report as well as views of the victim's family. I find that although the deceased's action of assaulting the accused's mother and son was unlawful and understandably evoked anger in the accused, the accused should have sought to resolve the matter amicably or

have it addressed through the normal legal mechanism instead of resorting to violence. Due to his unlawful action, the deceased needlessly lost his life.

- 12.** The offence of manslaughter is a serious offence which attracts a maximum penalty of life imprisonment. Having considered both the mitigating and aggravating factors in this case, I find that a custodial sentence is most appropriate in this case. Considering that the accused has saved the court's precious time by executing a plea bargain agreement, I will exercise my discretion and sentence him to serve 10 years imprisonment. The sentence shall be computed from 7th August 2023 when the accused was first arraigned before this court.

It is so ordered.

DATED, SIGNED and **DELIVERED** Virtually this 23rd April 2026.

HON. C. W. GITHUA
JUDGE

In the Presence of:

The Accused

Ms. Kinyua for the Accused

Mr. Mwangi for the State

Ms. Susan Waiganjo, Court Assistant