

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT EMBU**  
**(CORAM: R. MWONGO, J.)**  
**CRIMINAL CASE NO. E008 OF 2025**

REPUBLIC .....PROSECUTION

**VERSUS**

MICHAEL NDWIGA NJERU.....ACCUSED

**JUDGMENT ON SENTENCING**

**The Charge**

1. The accused was charged with murder contrary to Section 203 as read together with Section 204 of the Penal Code. The particulars of the offence are that on 06<sup>th</sup> February 2025 at Kianjuki village, Kianjuki Sub-location, Gaturi North Location, Embu North Sub- County within Embu County, the accused murdered Lucia Marigu Njeru.
2. The accused pleaded not guilty and the plea was duly entered.

**Plea-Bargaining Agreement (PBA)**

3. During pretrial hearing, the parties entered into a Plea-Bargaining Agreement dated 17<sup>th</sup> September 2025 signed by the accused, his advocate and the prosecuting counsel. The accused pleaded guilty to the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code. The PBA was availed in court together with Court's Compliance Form for recording the plea agreement and the deceased's Post-Mortem report dated 10<sup>th</sup> February 2025.
4. The court was satisfied that the accused person understood his rights under section 137F of the Criminal Procedure Code as signified by signing the Court Form. Consequently, the Plea Agreement was adopted as part of the court record.
5. Accordingly, the accused person was convicted of the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. Under Section 205 of the Penal Code, the punishment for Manslaughter is imprisonment for life.

**Mitigation**

6. In mitigation, the accused expressed remorse and regretted causing the death of his mother. He stated that the deceased had accused him of stealing and she had attacked him with a panga. That throughout his life, he has suffered physical and

emotional abuse from both his parents which experience has caused him immense trauma. He stated that he has, since the incident, undertaken trauma management counselling to prevent such occurrences in the future. He prayed for a lenient sentence, preferably a non-custodial sentence.

### **Response to Mitigation**

7. In response to the mitigation statement by the accused, the state opposed a non-custodial sentence. It stated that the deceased is his mother and she also left a child aged 8 years following her gruesome death. It stated that the Probation Officer's Report indicates that the community is not ready to embrace the accused if he is handed a non-custodial sentence.

### **The Probation Officer's Pre-Sentence Report (POR)**

8. According to the Probation Officer's report dated 17<sup>th</sup> November 2025, the accused and the deceased were constantly differing over the accused's bad behavior of stealing the deceased's farm produce. Earlier on that material day, the deceased had threatened to kill him with a machete. He later attacked his mother and killed her.

9. The report disclosed that the family of the accused is not ready to have him back at home. The POR recommended that the accused be sentenced to the maximum sentence available in law.

### **The Facts**

10. The agreed facts of the case are as follows:

1. On 6<sup>th</sup> February 2025, at around 0900hrs, the deceased went to her farm to tend to her crops and discovered that several banana stems had been cut. She suspected that her son, the accused, was responsible and proceeded to confront him. An argument broke out during which the accused threatened her, warning that she should either return to her maiden home or prepare for death. Distressed by the threats, the deceased immediately called her daughter, Jane Karimi Njeru and informed her of the situation.
2. The accused continued issuing threats in the presence of his sister, Sarah Njoki Njeru. He threatened that the deceased's head would touch the ground and that there would be two graves in their homestead that day. Alarmed and fearing for her safety, the deceased retreated into her house and locked herself inside.

3. After some time, she left the house, at which point the accused, who had been lying in wait, attacked her from behind. He struck her on the back of the head with a piece of timber and continued assaulting her after she fell down. The deceased's cries for help drew the attention of the accused's younger brother, who intervened by striking the accused, thereby stopping the assault.
4. Neighbours also responded to the deceased's cries after the accused had been subdued. Subsequently, the deceased and the accused were escorted by Jane Karimi and her husband to Kavutiri Police Station, where the matter was reported, before both were taken to Embu Level 5 Hospital for treatment. Unfortunately, the deceased succumbed to her injuries on 7<sup>th</sup> February 2025.
5. A Post Mortem of the deceased was conducted at Embu Level 5 Hospital Mortuary on 10<sup>th</sup> February, 2025 in the presence of Jane Karimi Njeru and Mary Wanjuki who identified the body. The doctor formed the opinion that the cause of death was severe head injury secondary to assault with a blunt object upon the left side proximal radio ulnar fracture.
6. On being mentally examined, the accused person was found fit to stand trial and was then charged with the offence of Murder, which has now been reduced to Manslaughter.

### **Analysis and Determination**

11. The court in this matter is guided by the provisions of the Judiciary Sentencing Policy Guidelines 2023 as amended on direction of the Supreme Court in the case of ***Murutetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR)***. Under section 205 of the Penal Code, the accused is liable to face a punishment of life imprisonment. In April 2025, the Supreme Court found the life imprisonment sentence to be lawful and applicable. This was the Apex Court's finding in the cases of ***Republic v Ayako (Petition E002 of 2024) [2025] KESC 20 (KLR) (Ayako case)*** and ***Republic v Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (Manyeso case)*** where it was held that only Parliament has the power to revise a sentence prescribed under a statute.
12. Despite this, the court should exercise its discretion given the circumstances of the case. Even though the applicant prayed for a non-custodial sentence, the POR revealed that his family is not willing to entertain him back at home following the incident. They urged the court to mete the maximum sentence applicable.

13. In mitigation, the accused stated that he had lived with constant emotional and physical abuse from his parents and he was fed up. From the facts presented, it is clear that there was a bitter exchange between the accused and the deceased, but the deceased retreated to her house. Later, the accused attacked her when she left the house thinking that the accused's anger had subsided.
14. The offence could have been avoided as it was aggravated by the accused's surge in emotions. The deceased met her death in a gruesome manner and there is no evidence to suggest that she had any opportunity to defend herself.
15. In the case of **Republic v Tanui [2026] KEHC 3602 (KLR)**, the court was faced with similar circumstances. The accused in that case had attacked his mother as she sat listening to the radio. She did not have a chance to defend herself during the attack and she succumbed to the injuries sustained from it. In his judgment, Ngarngar, J. was guided by the objectives of sentencing as provided under the Judiciary Sentencing Policy Guidelines 2023. He sentenced the accused person to 10 years imprisonment.

#### **Disposition**

16. In the present case, the POR and the prosecution recommended that the accused be subjected to the maximum sentence prescribed in law for the offence of manslaughter, that is imprisonment for life. However, considering the mitigating factors in this case, the court hereby imposes a custodial sentence of 14 years imprisonment. The period to include any time already spent in pre-trial custody.
17. Orders accordingly.

**Delivered, dated and signed at Embu High Court this 29<sup>th</sup> day of April, 2026.**

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**R. MWONGO  
JUDGE**

#### **Delivered in the presence of:**

1. Accused Present in Court
2. Muriithi for Accused
3. Ms. Mwaniki for the State
4. Francis Munyao - Court Assistant