

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BOMET
CRIMINAL CASE NO. E007 OF 2021

REPUBLIC.....

.....PROSECUTION

VERSUS

ROBERT KIPKORIR SANG

ACCUSED

JUDGMENT AND SENTENCING

1. The Accused, Robert Kipkorir Sang was 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 27th May 2021 at Sigor Location in Chepalungu Sub-County within Bomet County, he murdered Gedion Kiprono Sang.

2. The Accused took plea on 30th June 2021 where he pleaded not guilty to the charge of murder.

3. A Plea-Bargaining Agreement was filed on 17th November 2025 and it indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter. This court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the Plea Agreement voluntarily and that he understood his trial rights. On the same day, the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in a language he understood and he pleaded guilty. The court entered a plea of guilty for the offence of manslaughter.

4. The Facts as read by the Prosecutor and captured in the Plea Agreement are as follows: -

“On 27th May 2021 at 0300hrs, the deceased Gedion Kiprono Sang and his brother Robert Kipkorir Sang

were outside their mother's house. They had a small confrontation and misunderstanding. The Accused took out a kitchen knife and stabbed his brother in the abdomen prompting him to scream for help. The deceased wife and mother came out of the house and found the deceased lying on the ground with intestines out due to the open stab wound. The deceased mother with the help of good Samaritans tied the wound with a leso abd rushed the deceased to Tenwek Hospital but was pronounced dead on arrival.

The post mortem conducted on the body of the deceased showed that he died from hemorrhage shock from protruding stab wound on the stomach.

The Accused was arrested and charged with the offence of murder but had agree to plead guilty to the charge of manslaughter.”

5. The Accused accepted the facts as true and was convicted his on her own guilty plea for the lesser offence of manslaughter contrary to **section 202 as read with section 205 of the Penal Code.**

Pre-Sentence Report

6. A pre-sentence probation report was filed on 14th April 2026 and it indicated that on the material day, the deceased and Accused were under the influence of alcohol and a disagreement arose between the two leading to the stabling of the deceased by the Accused.

7. The report stated that the Accused was a well-known member of the local community and alcohol was identified as his weakness. The local community believed that the Accused had learnt his lesson and was capable of reform. They had no objection to the grant of a non-custodial sentence.

8. The Probation Officer recommended a non-custodial sentence.

Victim Impact Statement.

9. The victim's family stated that they had come to terms with the deceased's death and had found a measure of healing. That they had forgiven the Accused and did not harbour any hate towards him. They implored this court to grant him a non-custodial sentence so that he could bring back his wife and rebuild their marriage.

10. Through his mitigation dated 24th April 2025, the Accused submitted that he had accepted responsibility and was remorseful. That the deceased and the Accused were a close-knit family who have suffered a double tragedy of death and incarceration. The Accused further submitted that family reconciliation was a mitigating factor in manslaughter cases. He relied on **Republic vs Robert Ndungu Mderitu (2021) eKLR.**

11.It was the Accused's submission that they were engaged in a mutual fight and his act was not premeditated. It was his further submission that he had already served 5 years in remand and he had rehabilitated himself.

12.The Accused submitted that he was aged 27 years old and had no criminal record. That he had suffered immense psychological punishment over his brother's death.

13.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.**

14. 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.

15.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.

16.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.

17. In the final analysis, I note that the Accused's family had forgiven the Accused. I further note that the Accused had been in remand since 8th June 2021. The court notes the victim's mitigation and despite the Accused's actions being non-intentional, a life was lost. In the end, the Accused is sentenced to serve **10 Years Imprisonment.**

18. The sentence to run from the **9.6.2021** being the date Accused was arraigned in Court.

19. 14 days Right of Appeal.

Judgement delivered, dated and signed this 29th day of April, 2026

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HON. JULIUS K. NG'ARNG'AR

JUDGE

Judgement delivered in the presence of;

Siele/Susan - Court Assistants

Mr. Mwangangi for the State

Mr. Ondiek for the Accused

ORIGINAL