



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mwanguwa (Criminal Case E004 of 2024)
[2026] KEHC 5475 (KLR) (28 April 2026) (Sentence)**

Neutral citation: [2026] KEHC 5475 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL CASE E004 OF 2024
AN ONGERI, J
APRIL 28, 2026**

BETWEEN

THE REPUBLIC PROSECUTOR

AND

GIFT MWANGUWA ACCUSED

SENTENCE

1. The accused person, Gift Mwanguwa was charged with murder c/s to Section 203 as read with Section 204 of the P.C Cap 63 laws of Kenya
2. The offence was reduced to manslaughter c/s 202 as read with 205 following a successful plea bargain agreement signed by the accused person on 18/09/2025.
3. The particulars of the charge of manslaughter was that on 17/3/2024 at Wanjala village, Kishushe in Wundanyi sub-county within Taita Taveta county, the accused person unlawfully killed Samuel Mwakono.
4. The accused pleaded guilty to the charge of manslaughter. The accused person, Gift Mwanguwa, now appears before this court for sentencing following the successful plea bargain agreement that saw the initial charge of murder reduced to one of manslaughter contrary to section 202 as read with section 205 of the Penal Code.
5. The facts as given by the prosecution were as follows;

The accused person herein Gift Iti Mwanguwa and the deceased used to work together as charcoal burners at Wanjala village in Kishushe. They shared a common make shift house with Sebastian Machocho, Samuel Mwachola and Stephen Msanya Lenjo.

On 17th March, 2024 the accused and deceased arrived home drunk. They started arguing whilst outside the house about the accused's phone which could not be traced. A fight



ensued leading to the accused hitting the deceased with a melamine cup on the head. Stephen Msanya heard the argument and went outside. He found the deceased laying on the ground. The deceased informed Stephen that the accused had hit him on the head.

Stephen requested the deceased to give him his mother's number so that she could be informed. Unfortunately, the deceased became unconscious. Stephen ran into the house and informed the others including the accused about the deceased condition. They immediately sought for a boda boda. The accused then took the deceased to Kishushe dispensary. He was later referred to Wesu hospital. the deceased was declared dead on arrival. Police officers from DCI Wundanyi were informed of what had happened. They went and processed the scene and took photographs. On 19th March, 2014 a postmortem was conducted establishing the cause of death.

The accused person was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code which has now been substituted to that of manslaughter contrary to section 202 as read with section 205 of the Penal Code.

6. The court has considered the presentence and the victim assessment reports filed on behalf of the accused.
7. The accused person and the deceased were good friends prior to the incident.
8. The facts placed before the court, which the accused admitted, reveal a tragic chain of events that began on 17th March 2024 when both the accused and the deceased, Samuel Mwakono, returned to their shared makeshift house in an intoxicated state following their work as charcoal burners.
9. An argument ensued concerning the accused's missing phone, and in the heat of the moment, the accused struck the deceased on the head with a melamine cup.
10. The deceased collapsed and later succumbed to his injuries despite the accused's efforts to rush him to hospital.
11. The court has had the benefit of considering the presentence and victim assessment reports, which indicate that the accused and the deceased were friends before this unfortunate incident.
12. The accused now stands convicted of manslaughter, and this court must now determine an appropriate sentence guided by the law, the circumstances of the case, and the applicable sentencing principles.
13. The penalty for the offence of manslaughter is prescribed under section 205 of the Penal Code, which provides that any person convicted of manslaughter is liable to imprisonment for life.
14. It is well established that this provision sets the maximum sentence, leaving this court with wide discretion to impose a sentence that is proportionate to the culpability of the offender and the circumstances of the offence.
15. The circumstances surrounding this offence present several mitigating factors that this court must carefully consider.
16. The accused and the deceased were friends and colleagues who worked together and shared accommodation, indicating that this was not a premeditated attack but rather a sudden altercation arising from a dispute over a missing phone while both parties were under the influence of alcohol.
17. The facts reveal that the accused did not act with malice aforethought, and immediately upon realizing the gravity of the situation, he took steps to seek medical assistance for the deceased by transporting him to Kishushe dispensary and later to Wesu hospital.



18. This subsequent conduct demonstrates genuine remorse and a lack of intention to cause death. The accused has also saved judicial time by entering into a plea bargain agreement and pleading guilty to the lesser charge of manslaughter, a factor that courts have consistently recognised as deserving of consideration in sentencing.
19. The pre-sentence report filed on behalf of the accused is an important document that this court must consider in determining the appropriate sentence.
20. The report provides insight into the accused's personal circumstances and the views of the community. The court notes that the accused is a first offender with no previous criminal record, a factor that entitles him to consideration for leniency.
21. The fact that the accused and the deceased were friends prior to the incident is also a mitigating factor, as it suggests that the killing occurred in the context of a sudden misunderstanding rather than from long-standing animosity.
22. However, this court must also consider the aggravating factors present in this case. A life was lost, and the family of the deceased has suffered an irreparable loss.
23. The deceased was a young man with his whole life ahead of him, and his death has undoubtedly caused immense pain and suffering to his loved ones. While the victim assessment report has been filed, the court must weigh the impact of this loss on the deceased's family.
24. The use of a melamine cup as a weapon, though not a dangerous weapon in the traditional sense, resulted in fatal injuries, and the accused must bear responsibility for the consequences of his actions.
25. This court must balance the need to punish the accused for his criminal conduct while also considering the prospects for his rehabilitation and reintegration into society.
26. This court has also considered the wide range of sentences imposed in comparable cases to ensure consistency in sentencing.
27. Having carefully considered all the mitigating factors, including the accused's remorse, his guilty plea, his status as a first offender, his efforts to assist the deceased after the incident, and the fact that the killing occurred in the heat of the moment without premeditation, this court finds that a custodial sentence is warranted.
28. The objectives of sentencing, as captured in the Judiciary Sentencing Policy Guidelines 2023, include retribution, deterrence, rehabilitation, restorative justice, community protection, denunciation, reconciliation, and reintegration.
29. A custodial sentence will serve the purpose of denouncing the accused's conduct and communicating the community's condemnation of the taking of a human life.
30. It will also serve as a deterrent to others who may be tempted to resort to violence in resolving disputes.
31. At the same time, the sentence must be lenient enough to allow for the accused's rehabilitation and eventual reintegration into society.
32. The accused is a young man who, after serving his sentence, should be able to return to society and become a productive member of the community.
33. The court is also mindful of the provisions of section 333(2) of the Criminal Procedure Code, which requires that the court take into account the period spent in custody pending trial when imposing a sentence of imprisonment.



- 34. The accused was first arraigned in court on the murder charge, and the period he has spent in custody must be deducted from the final sentence.
- 35. In light of all the foregoing considerations, and having weighed the mitigating factors against the aggravating circumstances, this court sentences the accused, Gift Mwanguwa, to serve five (5) years imprisonment for the offence of manslaughter.
- 36. This sentence takes into account the need for deterrence and denunciation while also recognising the accused's remorse, his guilty plea, and the circumstances surrounding the offence.
- 37. The sentence shall run from the date of the accused's first arraignment in court, being the date when he was taken into custody in respect of this case, in accordance with the provisions of section 333(2) of the Criminal Procedure Code.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT VOI THIS 28TH APRIL, 2026.

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A. N. ONGERI

JUDGE

In the presence of:

Court Assistant: Millicent/Eghwa

..... for the Prosecutor

..... for the Accused

