



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION- MILIMANI COURT
HIGH COURT CRIMINAL CASE NO. 056 OF 2021

REPUBLIC.....PROSECUT
OR
DENNIS MUDAVI alias DINGO
.....ACCUSED

JUDGMENT

PLEA BARGAINING AGREEMENT FILED ON 22ND
APRIL 2025

INFORMATION

1. The Accused Person herein **Dennis Mudavi Alias Dingo** is charged with the offence of Manslaughter Contrary to **Section 202** as read with **Section 205** of the Penal Code **Cap.63 Laws of Kenya.**
2. Particulars off the offence being that on the 1st August, 2021 at around 23 30hrs at Kosovo Slums

in Mathare area, in Mathare Sub County, within Nairobi County, unlawfully killed **KENNEDY MUSYOKA JAMES.**

PLEA BARGAIN AGREEMENT

3. The plea Bargain Agreement was executed on 22nd April 2025 by:
 1. The Accused person - **Dennis Mudavi alias Dingo**
 2. **Ms Annah Omwenga** Advocate for the Accused Person.
 3. **Ms Gikui Gichuhi**, Head of Homicide ODPP and
 4. **Ms Roselyne Tum** - Prosecution Counsel-ODPP
4. The charge was reduced from that of murder c/s 203 & 204 Penal Code filed on 13/8/2021 to lesser charge of Manslaughter c/s 202 & 205 of Penal Code.

COURT PROCEEDINGS

5. On 10/8/2021, the Report from Mathari National Referral Hospital, Dr Mucheru Wangombe found the Accused person

FIT TO PLEAD.

6. The hearing commenced on 23/3/2022, before Hon D Ogembo J and took evidence of PW1, PW2 & PW3.
7. On 17/3/2025, the Defense Counsel for Accused person requested pursuit of Plea Bargain with/through ODPP, culminating with the instant Plea Bargain Agreement duly executed by all parties.
8. Information/charge was read to the Accused person vide the charge read in Kiswahili.
9. The statement of offence and particulars of offence read in Kiswahili by ODPP - Ms. Tum to the Accused Person

Accused - I admit the charge.

10. **FACTS:** - read by Ms. Tum ODPP/Prosecution on 1/8/2021 at 8.00pm **Kennedy Munyoka James** was at Kosovo Slums with you as his friend. You drunk the drinks until 11.00 pm and the deceased knocked your drink/alcohol and the drink poured/bottle broken. The friend of victim (deceased) Michael Irungu Hama heard the commotion and came to the Bar and he intervened after quarrel ensued and you stabbed him. The friend, Michael heard deceased scream he was

stabbed and was bleeding and the deceased said you stabbed him, with a knife you removed from your waist.

11. The friend of deceased Michael screamed for help and took him for treatment deceased was writhing in pain on the right side of the chest, with blood oozing. You had the knife that had blood.

12. The deceased was rushed to nearby Mediciens San Francais (MSF) in Mathare, and the deceased was declared dead on arrival. You were arrested by the public who cornered you along Mathare River while holding the knife. As they tried to disarm you, you stabbed Michael on the right arm before discarding the knife into the river and you were handed over to the Police and you were taken to Muthaiga Police Station and it was thereafter Post- Mortem Report indicated the cause of death was penetrating right chest injury (stab wound to the chest)

13. Investigations revealed the deceased was 20 years old. The Accused person was said to be 17 years having been born on 4/3/2004. The Accused was arraigned in Makadara Law Courts where Court granted some time in custody for Accused

for investigations. Thereafter, the accused was charged with the offence of murder.

Post Mortem Report - Exhibit - 1

The Mental Assessment - Exhibit 2.

Accused - I admit and agree to/with the facts.

14. **Court** - The accused is convicted on his own plea of guilt on the lesser charge of manslaughter as per Plea Bargain Agreement and on his own plea of guilty of the charge, statement of offence and particulars of offence and Facts as read by the Prosecution.

15. This Court is satisfied the Plea Agreement was voluntary as the Accused person took plea in Court and admitted the reduced charge. The facts were read to him in Court and he admitted the facts. The Court asked the Accused if he was coerced influenced or intimidated to plea bargain and informed Court it was voluntary. The accused was within his rights as spelt out by **Section 137 CPC** and therefore plea bargained to the lesser charge of manslaughter.

PRE-SENTENCE PROCEEDINGS

16. **Ms. Tum ODPP** -I do not have the accused previous record he can be treated as a first offender.

Ms. Omwenga - for the accused person.

MITIGATION

17. The Accused person is a young man and saved Court's time by pleading guilty and the accused is remorseful and we pray the 4 years and 3 months to be taken into account in Court's consideration in sentencing. The family is ready to accept him. We pray for 1 year probation or for reasonable sentence.

PRE-SENTENCE REPORT

18. The family members interviewed associated offender's behavior to negative peer influence, truancy from school and home, joining gangs in the area and their inability to control his behavior. The Accused person's mother expressed the need for the offender to be held in custody to pursue technical courses to empower him saying that his security could not be guaranteed as some of his gang members were killed under mysterious circumstances. Regardless she prays for leniency

in sentencing considering years he has spent in custody.

VICTIMS VIEWS

19. The victims, family of deceased, Bendetta Munzau James mother of deceased told the Court on 19/9/2025 that she took care of her child Deceased among 4 children with difficulty, he had after Class 8, she opened business for him to sell products. She was in pain that after the ordeal, the family of offender did not even apologize for the incident nor did they agree to a meeting to discuss and amicably agree on any form of compensation. She is bitter and expressed disappointment for lack of compassion empathy or support from offender's family from loss of her son. The family remains deeply affected psychologically by the incident and deceased's mother prays for justice.

AGE ASSESSMENT

20. On 14/1/2025 O/C Kamiti YCTC Mr Paul E Kaburu wrote to Court on the Accused person's request of age assessment order

On 20/1/2025 Presiding Judge Hon K Kimondo J sought the Accused person undergoes age

assessment and report to be presented to Court and shared with O/C Kamiti YCTC.

21. On 22/7/2025, this Court reiterated the request for age assessment and report to be provided to the Court.

The ODPP represented by Ms Tum was not sure if age assessment was done or not.

Ms Omwenga Counsel for the Accused person informed the Court that the Accused person was taken to Kenyatta Hospital for age assessment and the Report was in Nairobi Remand.

PRE-SENTENCE PROCEEDINGS

22. **Mr. Biko ODPP** - The Accused person is 1st offender and when I check the circumstances that he caused the death of the victim and stabbed the deceased with a knife on the neck and caused excruciating pain and loss of blood and he died from the pain and injury. The Accused ran away and he did not assist the victim but left him to his family. The victim family has suffered for loss of their son. They are not agreed to non-custodial sentence under Section 205 Penal Code which in Life imprisonment.

23. **Ms. A. Omwenga** - for the Accused person.

The Accused is yet to marry and have a family and serve his country and he should be placed in non-custodial sentence and/or community service. The Accused person is remorseful for the offence. The Accused person is a first offender. He pleaded guilty and saved courts time. The community is ready to receive him.

24. The court has looked at the Report the Pre-sentence Report and found that he stabbed the deceased and then his friend Michael as he ran away within Ruai and he was part of some gang in the area. The accused mother stated the accused person conduct and it will be difficult when he attends court/home/non-custodial sentence.

25. The Accused person was arraigned in court on 8/8/2021 and has been in custody to date and the period from his arrest shall be taken into account.

26. The accused person probation report Pre-sentence Report is not encouraging especially the sentiments/views by his mother that the Accused person is truant at home village and has been a member of a gang and he is not considered for a non-custodial sentence. He also stabbed a friend at the time of arrest.

27. The victim family lost their family member a life and through excruciating pain the deceased will not come back. The accused's Pre-sentence Report is not encouraging though has since pleaded guilty on his own volition and saved courts time. The Accused person is hereby sentenced to serve 15 years imprisonment from 8/8/2021 to date in computation of the sentence.

28. **Order:** The Accused person is sentenced to serve 15 years with effect from 8/8/2021 which date he was arraigned in court to date as provided by Section 333(2) Penal Code and he may exercise right of appeal.

**RULING DELIVERED SIGNED & DATED IN OPEN
COURT HIGH COURT CRIMINAL DIVISION-NAIROBI
ON 24/4/2026**

**M.W. MUIGAI
JUDGE**