



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL CASE NO. 078 OF 2021**

**REPUBLIC .....**  
**PROSECUTION**

**VERSUS**

**WILKINS MUDASIA NGAYWA** alias  
**WAINGO** alias **MLUHYA.....ACCUSED**  
**PERSON**

**JUDGMENT**

**PLEA BARGAIN AGREEMENT EXECUTED ON**  
**22/4/2025**

**INFORMATION**

1. The Accused person, Wilkins Mudasia Ngaywa was charged with the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. The particulars of offence are that on the 6<sup>th</sup> day of October, 2021 at around 2030Hrs at Mukuru Kwa Njenga, in Embakasi Sub-County, within Nairobi County Wilkins Mudasia Ngaywa unlawfully killed **MATHEWS MULI MWONGELA.**

## **PLEA BARGAINING AGREEMENT**

3. The Plea Bargain Agreement was executed on 22nd April 2025 by:

1. The Accused person - WILKINS MUDASYA NGAYWA
2. Ms. NYAERA OMWENGA Advocate for the Accused Person.
3. Ms .GIKUI GICHUHI, Head of Homicide ODPP and
4. Ms. ROSELYNE TUM - Prosecution Counsel- ODPP

## **COURT PROCEEDINGS**

4. The new charge/information is/was read to the accused person by Court Assistant in Kiswahili.

The charge of man slaughter is/was read and explained to the accused person in Kiswahili.

The statement and particulars of the offence read to the Accused person

Accused: ' Ninakubali'- I agree.

## **COURT**

5. The plea of guilty entered with charge of man slaughter for the accused person on his own plea of guilt

**FACTS**

6. ODPP Ms Tum states; in Kiswahili

7. On 6/10/2021 at 7:30 P.M at night the accused person who lived in Mukuru Kwa Njenga came from work at Utawala and on reaching home found his house locked. He left the door closed but without securing with a padlock

8. On opening the door, he found valuable items missing in the house. The household items missing were gas, stove, sufurias, battery and bag of clothes. The accused person suspected Matthew Muli his immediate neighbor and he went to his house and forcefully pushed his door and confronted him about the theft of his belongings.

9. They argued and confrontation ensued and resulted in a fight. The accused took a plank of wood and he hit the deceased and the deceased fell downwards and hit the iron sheet walls of the house and the deceased fell unconscious.

**THE PLANK OF WOOD-( EXHIBIT 1).**

10. The neighbor Benjamin Kioko another neighbor heard the screams from the deceased's

house and rushed to the scene in a hurry, he found the commotion and found the deceased on his back on the floor and wall of his house and the accused still holding the plank of wood.

The neighbor snatched the plank of wood from the accused person.

11. He asked for help and other neighbors came to take the deceased to hospital, Cold Care Clinic and was referred to Mukuru Health Centre where he succumbed his death. The neighbor was reported at Imara Daima Police Post and the accused was arrested. The deceased's body was taken to City Mortuary. On 12/10/2021, the post mortem was conducted and the cause of death was multiple organ injury and blunt force trauma.

**POST- MORTEM REPORT DATED 11/10/2021  
EXHIBIT 2.**

12. The accused was arraigned at Makadara Law Court and was left in custody as investigations were underway and later brought to this court charge with the offence of murder.

The Accused stated "Ni ukweli" translated as;  
Accused: The Facts are true.

13. The accused is hereby found guilty on his own plea of guilt and convicted on the lesser charge of man slaughter as per the facts read and admitted by the Accused person.
14. The accused person entered into this Plea Agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than as contained herein, and without threats, force, intimidation or coercion of any kind.
15. 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**

Ms Tum ODPP: The accused may be treated as 1<sup>st</sup> offender.

### **PRE-SENTENCE REPORT**

16. The Pre-Sentence Inquiry Report of 29/01/2026, **Family background**, offender's family have been concerned about his welfare and are shocked by the situation and life will never be the same. He is described as key family breadwinner helping to pay school fees for other younger siblings, he was social and responsible

member of the family and pleads for lenient sentence as he has no previous conviction record.

17. **Community Attitude** towards offender's family are well known and have no reported criminality. The Community vouched for offender's good character and social standing as well as the family.

18. **The Victims;** the deceased and brothers of the deceased stated that their brother's death was a big loss to the family and it was a big cost to them with the family of the offender not having supported them in any way, there was no compensation for the blood of their brother and prayed the Accused person be given maximum sentence.

19. **Mr. Biko ODPP** - Present online

The Accused person is a 1<sup>st</sup> offender and he does not have a criminal record. Section 204 Penal Code the offence of manslaughter attracts life sentence according to the law for the offence that the Accused person admitted and this court entered plea of guilt.

20. The Report/Probation Report the Accused person has not reached out to the victims family to apologise and he has not reached out to the family for any negotiation and the victim family prays for

the maximum sentence and even after the Accused hit the deceased and he was injured and incurred pain the Accused should be sentenced to custodial sentence and he should improve on anger issue.

**Ms. A. Omwenga for the Accused**

21. We are praying for non custodial sentence probably Probation. The community is ready to forgive him and accept him. The Accused person is remorseful to the victims family. The Accused is a 1<sup>st</sup> offender and saved courts time by pleading guilty. The accused period in custody since arraignment should be considered during the sentence.

Accused Person – I don't want to tell the court anything.

22. **Court** – The court has considered the circumstances of the offence from the facts read by ODPP and admitted by the Accused person on his own volition. The accused person hit the deceased with a plank of wood and was identified at the scene. The injury pain from the hit resulted in deceased's death. Whereas the Accused is 1<sup>st</sup> offender the victim family has lost a life, the deceased's conferment of excruciating pain that

led to death and there cannot be compensation or to turn the deceased's clock.

23. Taking into account the mitigation presented and plea bargain to ensure justice of the case to both parties, the Court sentence the Accused person to serve 10 years imprisonment with effect from 8/10/2021 when he was first arraigned in Court and the period he has been in custody 10 years imprisonment for the offence of manslaughter as provided by Section 333(2) Penal Code.

The Accused person has right of appeal under the law.

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

**M.W. MUIGAI  
JUDGE**

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL CASE NO HCCR/E078/2021**

**REPUBLIC**

**VERSUS**

**WILKINS MUDASYIA NGAYWA alias WAINGO alias MLUHYA**

## **PLEA BARGAIN AGREEMENT**

### **THE PLEA**

1. The accused person is entering into this Plea Agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than as contained herein, and without threats, force, intimidation or coercion of any kind.
2. The accused person admits that he is guilty of offence of Manslaughter contrary to section 202 as read with section 205 of the Penal Code, Chapter 63, Laws of Kenya and that he understands every element of the charge including the penalties provided by law.

**DATED at NAIROBI** on this **22<sup>ND</sup>** day of **APRIL** 2025.

### **ACKNOWLEDGEMENTS;**

#### **BY THE ACCUSED:**

SIGN: **WILKINS MUDASIA NGAYWA**

DATE: **22/4/2025**

#### **BY THE ADVOCATE FOR THE ACCUSED:**

SIGN: **NYAERA OMWEGA, ADVOCATE**

DATE: **22/4/2025**

SIGN: **GIKUI GICHUHI, HEAD OF HOMICIDE**

DATE: **30/4/2025**

SIGN: **ROSELYNE TUM, PROSECUTION COUNSEL**

DATE: **30/4/2025**