

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

CRIMINAL CASE NO E002 of 2026

REPUBLIC.....

PROSECUTOR

VERSUS

SIMON KIPKORE KIPROP..... .

ACCUSED

RULING

- 1. SIMON KIPKORE KIPROP** pleaded guilty to a charge of Manslaughter following a successful plea bargain process culminating in a Plea Agreement dated 4th May 2026. The Particulars of the charge are that on the 3rd January 2026 at Kosyin village, Chepyakwai Location in Kapsaret Sub County within Uasin Gishu County in the Republic of Kenya unlawfully killed Hassan Kemboi Contrary to Section 202 as read with 205 of the Penal Code.
- 2.** The matter is before court for sentencing.

- 3.** Ms. Kirenge informed the court that she had no previous criminal record on the Accused.
- 4.** Mr. Tarigo, counsel for the Accused, in mitigation on behalf of the Accused stated that the Accused is very remorseful for the incident. At the time both the deceased and the Accused were under influence of alcohol. A confrontation led to the very unfortunate incident.
- 5.** That the Accused is a father. He provides for his family and has been doing odd jobs including charcoal burning within Uasin Gishu County to pay for school fees for his 2 children in High School. One is Emmanuel Kiprop. He is in form 3. Joan Jemutai Kiprop is in form 4 and both are schooling at Ishmael Chelanga School in Elgeyo Marakwet.
- 6.** He has been providing for his wife who is a house wife in Marakwet and has been taking care of his mother. She is dependent on him. He has been able to provide through his casual jobs. That he is fairly advanced in age and has been a man of good character. Previously before this incident he has been a law-abiding citizen. Counsel sought leniency. He adds that at the plea bargain they had proposed a sentence of not

more than 10 years. That the Accused is remorseful and has sent relatives to the home of deceased for purposes of seeking forgiveness and carrying out cultural practices in line with the incident.

7. The Accused has been very co-operative in the time he has been in custody and this is demonstrated by the plea of guilty.
8. On her part Ms. Kirenge for the state confirmed that the Accused reached out to the family as can be seen at page 4 of the agreement at paragraph 5. She placed reliance on the decision of the Court of Appeal in **Isaac Wambugu Mwangi Vs Republic 2024 KECA 928** where the court of appeal held that a sentence of 15 years is adequate.
9. The court has a wide discretion on the question of sentence. However, the said discretion cannot be used by the Court of law in a fanciful and whimsical manner. Every case has to be decided on the consideration of its circumstances including the gravity of offence, victim impact, the need to deter crime and the rehabilitation of an offender among others. The discretion does not open a *carte blanche* for a whimsical decision on the appropriate sentence. In *The Nature of the*

BENJAMIN N. CARDOZO puts it in the following words;

“The judge even where he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to ‘the primordial necessity of order in the social life’ . . .”

- 10.** The question then that I have to grapple with at this stage is what would constitute an adequate, appropriate and just sentence in the circumstances of this case. In the case of STATE OF MADHYA PRADESH v MEHTAAB CR. APPEAL NO. 290 OF 2015, the Supreme Court of India held:

“It is the duty of the court to award just sentence to a convict against whom charge is proved. While every mitigating or aggravating circumstances may be given due weight, mechanical reduction of sentence to the period

already undergone cannot be appreciated. Sentence has to be fair not only to the accused but also to the victim and society. It is also the duty of the court to duly consider the aspect of rehabilitating the victim.”

11. The objectives of sentencing as stated in paragraph 4.1 of the Judiciary Sentencing Policy Guidelines can be summarized as follows:

- a) To prevent the occurrence of crime;
- b) To punish the transgressor and the criminal;
- c) To rehabilitate the transgressor and the criminal;
- d) To compensate the victim;
- e) To deter the offender from committing any criminal acts in the future as well as other people from committing similar offences and
- f) To protect the community condemnation of the convict.

12. The importance of sentence was emphasized by the Supreme Court of India in the case of ANTONY PAREIRA v STATE OF MAHARASHTRA (2 AIR 2012 SC 3802) where it stated:

“70. Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles; twin objective of the sentencing policy is deterrence and correction. What sentence would meet the end of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

- 13.** I have carefully considered the nature of the offence, the manner of its execution, the conduct of the Accused and especially the demonstrated remorse as exemplified in the accession to the plea bargain process.

- 14.** I have in addition considered the mitigation put forth by the accused through his advocate and the State’s submission on sentence.

- 15.** In the circumstances of this case, am persuaded that the Accused, a hitherto a law-abiding citizen with no past criminal inclinations deserves a chance for rehabilitation and re-integration back to normal life and thus the sentence imposed should be one that serves as a deterrent and at the same time afford the Accused another chance in life.
- 16.** The Accused is to serve 10 years imprisonment.

**Dated signed and delivered virtually this 13th day of May
2026**

A.K. NDUNG'U

JUDGE