



REPUBLIC OF KENYA



**Republic v Muiruri (Criminal Case E010 of 2019)  
[2025] KEHC 3336 (KLR) (28 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 3336 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE E010 OF 2019  
A MSHILA, J  
FEBRUARY 28, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOHN KAMANGA MUIRURI ..... ACCUSED**

**SENTENCE**

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*; upon a Plea Bargain Agreement being entered the charge was then reduced to Manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code*;
2. The Plea Bargain Agreement dated 19<sup>th</sup> November, 2024 was adopted by the court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion of any kind;
3. The particulars of the reduced charge are that the accused unlawfully killed Richard Maina Buriion the 25<sup>th</sup> December, 2018 at Gitono Village in Kimorori Sub – Location, Kiambaa Sub-County within Kiambu County;
4. The facts of the case as narrated by the prosecution are that the accused and the Deceased were drinking in a Bar in Karuri in Kiambaa Sub County; a quarrel ensued over the Accused's contribution towards the Bill as he had only offered to pay Kshs.40/-with the deceased insisting that the accused's contribution ought to have been Kshs.100/-; the deceased then offered to refund the Kshs.40/- to the accused and a disagreement and fight ensued between the two because the accused was now claiming a refund of Kshs.60,-; other patrons in the Bar managed to separate them; An hour later the Accused revisited the issue and a commotion erupted outside the bar whereby the Accused attacked the deceased with a kitchen knife and stabbed him in the stomach and threw the knife into a pit latrine; The patrons intervened and rushed the deceased to Kiambu Hospital in a very critical condition but he



later succumbed to the injuries on 28/04/2027; Whereas the accused received a thorough beating from members of the public and he was only rescued by local authorities.

5. On the 2/01/2019 the post-mortem was conducted by Dr. Ndegwa and the report revealed that the cause of death was due to septicemia due to penetrating sharp forced trauma; Prosecuting Counsel produced the Post Mortem Report which was marked as 'PEXh.1';
6. The accused stated that the facts as narrated were correct and the court proceeded to convict him on his own pleas of 'Guilty' for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code;
7. The accused were represented by Learned Counsel Mr Mathenge whereas Mr. Gacharia was the Prosecuting Counsel for the State; The two counsel were invited to make submissions before sentencing;
8. In mitigation counsel for the accused submitted that the accused and the deceased were taking alcohol in a bar and got into an altercation over the settlement of a bill; Counsel beseeched the court to look at the circumstances of that night and the cause of death principally arose from a bar-room brawl; the circumstances leading to the death of the deceased was not pre-meditated; The act was done at the heat of the moment; the accused was truly remorseful for having caused the death of his friend; that he was also a victim of the offence as he had borne the wrath of the members of the public who assaulted him by administering mob-justice and after having been rescued by the police he had to seek medical treatment;
9. The accused had readily pleaded guilty at the earliest onset and thus saved on judicial time; he was aged 61years and had a wife and was a father of seven (7) children; after his arrest and during his stint in remand his children have suffered greatly as he was the sole bread winner and there was no-one to provide for them; he was diabetic and had to manage this condition whilst in remand; during his stay in remand he had time to reflect and had undertaken Christian related courses which he believed he could put to good use if he were reconnected with the community; Counsel urged the court for a non-custodial sentence and reiterated that he was truly remorseful for the death of his friend;
10. The prosecution had no previous records and Counsel for the Accused submitted that the accused be treated as a first offender; For those reasons Counsel pleaded for leniency and a non-custodial sentence on the grounds of his age and diabetic condition; a non-custodial sentence would also enable the accused reintegrate back into society to share what he had learnt while in custody.
11. Prosecuting counsel submitted that the life once snuffed out was irrecoverable and it was imperative that the family of the deceased receive justice; the prosecution had no previous records of the convict; a Victim Impact Assessment Report was called for to assist in sentencing.

## Analysis

12. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows;  
'Any person who commits the felony of manslaughter is liable to imprisonment for life'
13. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are as follows; the accused's lack of anger management as he ought to have exercised restraint during the altercation which then led to a life being lost; he also attempted to flee the scene but the members of public caught up with him and dealt with him; the deceased's family have not come to terms with his passing on and they are still devastated and claim that the accused being a friend of the



- deceased he ought to have sent his family to reach out to them to offer their condolences and to take reconciliatory steps; as such they still harboured a grudge against the accused and have not forgiven him;
14. The mitigating factors are the accused may have been inebriated and this led to the unfortunate incident which demonstrates that the accused had no premeditated intention; by accepting the Plea Bargain Agreement the accused had not wasted judicial time;
  15. Other factors taken into consideration is the Victim Impact Assessment Report dated 4/01/2025; Having perused the Report it is noted that the accused had admitted that he had been previously convicted of manslaughter; the Report took into consideration the factor of failure to take the initiative to condole with the victims' family and failure to take steps towards reconciliation had led to there being no closure and that there was still a lot of hostility within the community towards the accused; for the forgoing reasons it was recommended that a custodial sentence as being the appropriate sentence;
  16. The aggravating factors having outweighed the mitigating factors by far this Court is satisfied that the accused is deserving of a deterrent custodial sentence and being drunk cannot be a plausible explanation for failing to exercise restraint during a disagreement; therefore, a term of Ten (10) years imprisonment is found to be an appropriate deterrent sentence for accused and to others who drink and engage in brawls with their drinking mates;

#### **Findings & Determinations.**

17. Having taken all factors into consideration this Court makes the following findings and determinations;
  - i. The accused is convicted on his own plea of guilty for the offence of Manslaughter;
  - ii. The accused is hereby sentenced to a term of Ten (10) years custodial sentence
  - iii. The period spent in custody from the date of arrest 25/12/2018 to the date of sentencing 28/02/2025 be deducted from his term of sentence.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 28th DAY OF FEBRUARY, 2025.**

**A. MSHILA**

**JUDGE**

In the presence of;

Sanja – Court Assistant

Magero – Prosecuting Counsel for the State

Mathenge – for the Accused

Accused – present

Language - Kiswahili

