



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Republic v Ayuka (Criminal Case E027 of 2023)
[2025] KEHC 1152 (KLR) (27 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1152 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
CRIMINAL CASE E027 OF 2023
TA ODERA, J
FEBRUARY 27, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

AMOS NYAGUOKA AYUKA ACCUSED

SENTENCE

1. The offender herein was initially charged with murder contrary to Section 203 as read with 204 of the *penal code*. He later entered into a plea bargain agreement with prosecution and the charges were reduced to manslaughter contrary to Section 202 as read with 205 of the *penal code*. He pleaded guilty to manslaughter and he was accordingly convicted.
2. This case is now coming up for sentencing. The court called for a pre-sentence report from the probation and after Care department and it has emerged from the same that the offender was a younger brother to the deceased. On the material day the offender found deceased in their mother's kitchen and he picked a quarrel with deceased and asked him why he was eating in their mother's house yet he had his own home and he was not the last born. A fight ensued they were separated by their cousins and their said cousins went to wait for deceased at the gate but accused emerged with a panga and cut deceased with it on the left side of the neck causing him the fatal injuries.
4. The report indicates the offender is aged 34, married with 3 children with a young family and that his family is still bitter with him and recommended a custodial sentence. The community and the local administration also vouched for a custodial sentence. The report recommends him a custodial sentence for his own safety and rehabilitation.
4. Defence Counsel submitted that the offender is a young man with a family and is remorseful is a married and has one child, and was a first offender. Prosecution also supported the contention that it



was submitted that the offender entered into a plea bargain agreement due to his remorse and so he prays for a non- custodial sentence.

5. The Supreme Court in the *Muruatetu case* set down the following factors to be considered in sentencing in murder trials;
 - a) Age of the offender.
 - b) Being a first offender.
 - c) Whether the offender pleaded guilty.
 - d) Character and record of the offender.
 - e) Commission of the offence in response to gender-based violence.
 - f) Remorsefulness of the offender.
 - g) The possibility of reform and social re-adaptation of the offender.
 - h) Any other factor that the court considers relevant.
6. I have considered the age of the offender nature of the offence, its circumstances, the pre-sentence report, mitigation, submissions, the remand period of about 2 years, the fact that he is remorseful and the sentiments of the family of deceased to deceased. I agree with defence counsel that the offender deserves leniency for entering into a plea bargain agreement and saved the precious judicial time of the court and expedited the determination of the case. The offender ended the life of his brother over petty sibling rivalry and his family and the community are still bitter with him and they want him incarcerated. I find that a non - custodial sentence is not appropriate in circumstances of this case as the community and his family are still bitter with him over the offence. There is also the need to rehabilitate him.
7. I proceed to sentence the offender to serve 7 (seven) years imprisonment. The same will run from 11.7 .23 when he was first arraigned in court till completion in full.
8. 14 days Right of appeal.

T.A ODERA

JUDGE

27.2.25

DELIVERED VIRTUALLY VIA TEAMS PLATFORM IN THE PRESENCE OF:

The offender

Koima for the State

Court Assistant: Oigo

Mr. Magara advocate t for the Offender

