



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Ngeno (Criminal Case E010 of 2022)
[2025] KEHC 4734 (KLR) (25 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 4734 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAROK
CRIMINAL CASE E010 OF 2022
CM KARIUKI, J
MARCH 25, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

NEHEMIAH KIPKURUI NGENO ACCUSED

SENTENCE

1. The accused is charged with offence of murder Contrary to section 203 as read with section 204 of the [Penal Code](#) Cap 63 Laws of Kenya. He pleaded not guilty and after pre-trial directions a plea bargain process was entered into culminating with a plea bargain agreement being entered into.
2. The charge of murder was substituted with a charge of manslaughter. The accused pleaded guilty to the offence of manslaughter and plea of guilty was entered.
3. The facts were read as follows: -
 - i. On the 24th of June 2022, D-1 Robert Ole Nabala was driving his lactating cows back home at around 0900 hrs. and heard a commotion in a maize plantation on a land leased by the suspect herein Nehemiah Kipkirui Ngeno
 - ii. At around 50 meters, he saw two people engaged in a physical fight. That he could recognize both the suspect and the deceased physically as well as their voices.
 - iii. That he saw the suspect fleeing the scene with a panga in his hand and the deceased on the other hand walked towards the direction of his employer's compound, D-2 Morindat Naabala.
 - iv. D-1 left the scene and upon reaching his homestead, he heard D-2, his immediate neighbour shouting out for help.



- v. D-1 proceeded to D-2's compound where he found the deceased with a deep cut wound on the left shoulder and left-hand laying in a pool of blood as was confirmed by both D-2 and D-3, Ben Njapiti.
- vi. The deceased was rushed to Longisa County Hospital where he was pronounced dead while receiving treatment. His body was moved to the facility mortuary where a postmortem was conducted on the 26th of June 2022, and it was established that the cause of death was a result of shock due to external haemorrhage secondary to sharp object injuries.
- vii. The incident was reported at the Mulot Police Station and handed over to PC Elvis Odhiambo of the DCI Narok West.
- viii. Upon investigations, it was established that prior to the murder incident report, the suspect herein had reported an assault report at 1325hrs via OB/No12/24/6/2022 alleging that he had been assaulted by the deceased using a nut rungu and had sustained injuries on the head at Ololulunga Police Station.
- ix. A P3 form was issued and duly filled by the Ololulunga Sub-County Hospital where the degree of injuries was assessed as harm which further confirmed that he indeed had sustained injuries from the confrontation they had with the deceased.
- x. In the process of being examined at the said facility, officers from Mulot Police Station and their counter parts from Ololulunga Police station coordinated in arresting the suspect herein and he was detained at Mulot Police Station.

Exhibits: availed.

Treatment Notes(suspect's)

Postmortem Report

- 4. The accused admitted the facts above and was convicted on his own plea. The court was informed by the prosecution that accused had no previous record thus could be treated as a first offender. The court ordered for post-conviction report by the probation officer. Then the advocate for the accused tendered mitigation to the effect that accused is a young man with wife and young children. He is a first offender and that he is remorseful and repentant. During mitigation the accused fainted in court and advocate asked to note same as he has the conditions occasion fainting.
- 5. The post-conviction report was filed and is positive in its recommendation after interview of both families of the victim and the accused. The two families reconciled and seek court to give a lenient sentence.
- 6. The recommendation by Pre-sentence Report is as follows: -

“..... that the offender may be granted a probation order to allow him to go through counselling sessions to help him cope with stress, conflict resolution, and emotional regulation as part of his rehabilitation to be a law-abiding citizen. Since the offender has a strong religious background and has already been supported by the church, he should continue engaging in faith-based guidance programs. His involvement in the church can help him rebuild trust and contribute positively to his community.”

Sentencing principles/objectives



Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other – insofar as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution: To punish the offender for their criminal conduct in a just manner.
 - ii. Deterrence: To deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing offences.
 - iii. Rehabilitation: To enable the offender to reform from his/her criminal disposition and become a law-abiding person.
 - iv. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs.
 - v. Community protection: To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.
 - vi. Denunciation: To clearly communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation: To mend the relationship between the offender, the victim and the community.
 - viii. Reintegration: To facilitate the re-entry of the offender into the society
7. Having taken to account the facts disclosed of the case, the facts that the accused is a first sentencing's mitigations tendered including the fact that he is unwell as he suffers from fainting bouts, further the post-conviction report and the sentiments expressed by both the victim and the accused family, plus the fact that the two families have reconciled, and finally the guidelines objectives on sentencing, I make the following orders in sentencing;
- i. The accused shall serve three years (3) probation.

DATED AND DELIVERED AT NAROK THIS 25TH MARCH, 2025.

CHARLES KARIUKI

JUDGE

