



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Ndolo (Criminal Case E056 of 2023)
[2025] KEHC 3612 (KLR) (Crim) (25 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 3612 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CRIMINAL

CRIMINAL CASE E056 OF 2023

K KIMONDO, J

MARCH 25, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

DOMINIC NDOLO ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 27th November 2024 by Mutende J. Following the transfer of the learned judge, the task to sentence the accused has now fallen on my shoulders.
2. The accused and Amos Muthoki Mackenzie (hereafter the deceased) shared a house at Neema Apartments in Pipeline Estate, Nairobi until March 2023. The accused then got a new housemate, Fredrick Kioko Musyoka. However, the deceased continued to visit the complex as a cleaner for the common areas.
3. On 11th July 2023, the accused suspected that the deceased had stolen some household items. He asked the caretaker about the whereabouts of the deceased. At 03:30 hours or thereabouts, the caretaker heard some screams on the ground floor. When, he reached there, he found the accused and his new housemate assaulting the deceased. He intervened and the two agreed to stop the beatings if the deceased showed them where he had taken the missing items.
4. At 06:00 hours, the trio returned to the complex. The accused informed the caretaker that the deceased led them to three places but no recoveries were made. The deceased had visible injuries. The accused and his accomplice then took the deceased to the rooftop and used a rungu and sticks to viciously assault the deceased. They then covered his body with a sack and left him for dead.



5. The accused made a belated report to the police about the theft. In the meantime, his accomplice went underground. When the police visited the premises to verify, they found neighbours gathered around the lifeless body of the deceased. He was facing upwards with blood oozing from his nose and ears.
6. The autopsy report by Dr. Peter Ndegwa (exhibit 1) confirms that the cause of death was “multiple injuries due to blunt force trauma” which I find is consistent with the facts read out at the trial and admitted by the accused.
7. Learned prosecution counsel, Ms. Ogweno, relied on the submissions dated 4th February 2025. She urged the court to consider the cruelty meted out on the deceased and the impact of the offence on the victim’s family. She prayed for a custodial sentence to allow the accused “to undergo guidance and counselling on behavior change”.
8. There is then the mitigation tendered on behalf of the accused by his learned counsel, Mr. Mutinda. He filed detailed submissions and a list of authorities including Republic v Juliana wanza Mulei, Machakos High Court Criminal Case 21 of 2017 [2020] eKLR.
9. In a synopsis, counsel submitted that the accused is very remorseful, a first offender and only aged 22. Accordingly, he should be given a fresh start in life. Reliance was further placed on the pre-sentencing report in which the probation officer recommends a non-custodial sentence.
10. I have perused the pre-sentencing report dated 10th December 2024 under the hand of Margaret Aduol, Probation Officer. The accused is young and single and hails from a poor background where “his mother struggled to meet the basic needs of the family”. He has no prior conflict with the law.
11. During his prison stay, he has been an active member of the protestant church and serves in the Prison Fellowship Ministry. He has also undergone counselling as per the certificates displayed to court and has received positive recommendation by the Officer in Charge of Nairobi Remand.
12. On the other hand, is the victim’s family. The deceased was 31 years and eking out a living as a cleaner at the said apartments. According to the report, “his parents have been greatly affected by the death of their son who was of prime age and they had high hopes that he would support them once he secured decent employment since he was educated to college level”. Since the incident, his mother has been “battling ill-health”. In short, the victims have not recovered from the “psychological trauma and are still bitter”
13. Nevertheless, the victim’s family remains open to reconciliation under Kamba customs. At the time of recording the plea agreement there was no such evidence.
14. I have taken into account that the accused is a first offender. But his unrelenting anger led to loss of an innocent life over the mere theft of a 6kg gas cylinder and bag from his house. He and his housemate, who has since gone underground, battered the deceased. The two escalated it to a brutal beating on the rooftop of the building using a rungu and sticks. The belated report of the theft to the police by the accused was a poor justification.
15. His conduct has now ended in needless anguish for the family of the deceased. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. The fact that the accused and his accomplice took time after the original assault to visit three places to recover the stolen items, return hours later still holding the deceased, take him to the rooftop, kill him and cover his body with a sack is a major aggravating factor.



16. Justice in this case can only be served by an appropriate custodial sentence. It will also afford the accused an opportunity to further introspect and get anger counselling. I accordingly sentence the accused to serve ten (10) years in jail. The sentence shall run from 13th July 2023, the date when he was first arrested and placed in custody.
17. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25TH DAY OF MARCH 2025.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Ms. M. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. M. Kamau for the accused instructed by Matio Kamau & Company Advocates.

Mr. E. Ombuna, Court Assistant.

