



**Republic v Otieno (Criminal Case E017 of 2024)
[2025] KEHC 7517 (KLR) (29 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 7517 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
CRIMINAL CASE E017 OF 2024**

OA SEWE, J

MAY 29, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

FRED OPIYO OTIENO ACCUSED

SENTENCE

1. The accused, Fred Opiyo Otieno, was initially charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code, Chapter 63 of the Laws of Kenya. The particulars were that on the 5th day of January 2024 at Kokoth Kateng Sub-Location in Rachuonyo North Sub-County within Homa Bay County, he murdered Joshua Onyango Wisu.
2. The parties thereafter negotiated a Plea Agreement which was approved and adopted by the Court on 26th March 2025. The charge of murder was consequently substituted with manslaughter. The accused pleaded guilty to the lesser offence of manslaughter, preferred under Section 202 as read with Section 205 of the Penal Code and was convicted on his own plea of guilty. The matter is coming up for sentencing.
3. Section 205 of the Penal Code stipulates that a person who commits the offence of manslaughter shall be liable to imprisonment for life. However, the Judiciary Sentencing Policy Guidelines suggests that:

“Where the option of a non-custodial sentence is available, a custodial sentence should be reserved for cases where the offence is so serious that neither a fine nor a community sentence can be justified. The length of that sentence will depend on the maximum penalty allowed by law and the seriousness of the offence and other factors set out in Part V. The court should bear in mind the high rates of recidivism associated with imprisonment and seek to impose



a sentence that is geared towards achieving the sentencing principles and objectives set out in Part I.”

4. The accused addressed the Court in mitigation through his counsel. It was indicated that he is extremely remorseful and pleads for leniency. The court was further told that he has a young family and that he is the sole breadwinner.
5. The Court thereafter called for a Pre-Sentence Report as well as a Victim Impact Assessment Report; both of which show that, although the accused is a first offender, the community and the local administration are opposed to him being given a non-custodial sentence due to hostility and insecurity that exists on the ground. The reports indicate that no reconciliation efforts have been made; and that the land issue remains unresolved to date. The reports further show that offender has no fixed abode for purposes of community rehabilitation; and that the family of the victim is opposed to the accused being given a non-custodial sentence.
6. Thus, having taken all the foregoing factors into account, including the fact that the accused, Fred Opiyo Otieno, has been in custody from the 26th June 2024, he is hereby sentenced to imprisonment for period of 4 years.

It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT HOMA BAY THIS 29TH DAY OF MAY 2025.

OLGA SEWE

JUDGE

