



**Muli v ODPD (Miscellaneous Criminal Application E008 of 2025)
[2025] KEHC 11372 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11372 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARSEN
MISCELLANEOUS CRIMINAL APPLICATION E008 OF 2025**

**JN NJAGI, J
JULY 30, 2025**

BETWEEN

JAMES MULWA MULI APPLICANT

AND

ODPP RESPONDENT

RULING

1. The Applicant has filed an undated application seeking that the court orders that he serves the remaining part of his sentence under the *Probation of Offenders Act*.
2. The application is supported by the affidavit of the applicant in which he states that he was convicted for the offence of manslaughter by the lower court and sentenced to serve 7 years imprisonment. That he did not appeal the decision of the lower court. That he was a first offender and was arrested at the age of 62 and is now aged 67 years.
3. That he is remorseful and deeply regret his actions. That he is possibly reformed and rehabilitated.
4. The applicant says that if granted remission of his sentence by the prison authorities, the earliest possible date of his release is 25/1/2027 which falls within the scope of Section 4 of the *Probation of Offenders Act*. He pleads with the court to order that he serves the remaining part of his sentence under probation.
5. A Sentence Review Report was prepared by a Probation Officer, Garsen. The report recommends conversion of the remaining custodial sentence to a non-custodial sentence of probation on the grounds that the applicant is of advanced age, has chronic health condition and is remorseful for the offence committed. That his mother is paralysed and is without a primary care giver. That the applicant's children face education disruption and social instability with his sons having abandoned school while his daughters are forced to move between relatives seeking for stable accommodation and education support.



6. I have called for and perused the file of the lower court – Garsen magistrate’s court Criminal Case No. E181 of 2021 –R-v-James Mulwa Muli aka She Muli. The facts of the case were that the applicant and the deceased were at a drinking den when they started to quarrel. The deceased picked a stick and tried to strike the applicant. The applicant went to his bicycle and removed a knife strapped on his bicycle. He went back to the deceased and stabbed him with the knife on the throat. The deceased fell down and died on the spot. The post mortem report showed that the deceased had a deep cut wound measuring 4cm into the chest cavity severing major vessels of the neck.
7. I have at the same time considered the sentence Review Report. While the same recommends that the remaining sentence be served under probation, no interview was conducted on the family members of the deceased. The report is not balanced.
8. Having considered the circumstances of the case and the manner the applicant killed the deceased, I find no merit in the application.
9. In view of the foregoing, the application is dismissed.

DELIVERED, DATED AND SIGNED AT GARSEN THIS 30TH DAY OF JULY 2025.

J. N. NJAGI

JUDGE

In the presence of:

Miss Mkongo for Respondent

Applicant: present in person at G.K. Prison Manyani

Court Assistant: Kambi

