



**Kipyego v Republic (Criminal Petition 56 of 2021)
[2025] KEHC 12388 (KLR) (4 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12388 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL PETITION 56 OF 2021
RN NYAKUNDI, J
SEPTEMBER 4, 2025**

BETWEEN

NICKSON KIPTOO KIPYEGO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before this court is an application seeking the following orders:
 - a. That the petitioner is seeking for leniency on the basis Article 53(1) b, c, e of *the constitution* and section 6 of the Criminal Procedure Code cap 75.2 Laws of Kenya.
 - b. That, since the offence was not deliberate hence occurred accidentally, may this honorable court be pleased to call for and re-examine the probation report and admit me on probation for the remaining part of my sentence under section 6 of the CPC.
 - c. That, may this honorable court be pleased to find out that we agreed with the deceased's family under article 159(2) of *the constitution* of Kenya that the offence was not deliberate and set in orders as setting me free.
 - d. That, this honorable court be pleased to invoke the provision of article 45(1) and 53(1) (b) (c) (e) (2) of *the constitution* of Kenya to find out that my children need a family and parental care which can which can only be provided by me.
2. The application is made on the following grounds among others;
 - a. That, the petitioner is keen and willing to surrender and abide to all protocols that would be laid out upon admission on non-custodial sentence, since he is prone to suffer consequences of any lockdown in prison if the outbreak of the covid-19 virus continues to spread.



- b. That, there exists other special circumstances that warrant the hearing of the application on priority basis.
- c. That, keeping the petitioner in custody will not be in the interest of his family and deceased's family because the matter was resolved by both parties as under Article 159(2) c of the constitution of Kenya 2010 considering that the petitioner is susceptible to the spread of covid-19.
- d. The Petitioner knows of his own knowledge that he was convicted and sentenced to serve 4 years' imprisonment for the offence of murder contrary to section 203 as read with 205 of the penal code, which was reduced to manslaughter by High court at Eldoret.
 - a. That, the Petitioner knows of his own knowledge that the deceased was his legal wife and a mother of his children.
 - b. That the matter was resolved through an alternative dispute resolution by the petitioner's family and the deceased's family.
 - c. That the two families do maintain a mutual relationship which existed before the commission of the offence as was reported to the trial court by the probation officer.
 - d. That his children whom he sired with the deceased are living an orphaned life in the absence of both parents because his single disabled mother cannot meet their needs and wants.
 - e. That the petitioner was the sole breadwinner to his children and their entire family because he is the only son of his disabled mother.

Decision

- 3. From the record the petitioner on 16th March 2023 withdrew the petition and the same be and is hereby allowed. Orders accordingly.

DATED, SIGNED AND DELIVERED AT ELDORET VIA CTS ON THIS 4TH DAY OF SEPTEMBER 2025

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R. NYAKUNDI

JUDGE

M/s Sidi for the state

